No. 80 499

In the Supreme Court

OF THE

United States

OCTOBER TERM, 1980

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MICHAEL RODAK, JR.

GEORGE R. WILLIAMS, et al.,
Petitioners,

VS.

PACIFIC MARITIME ASSOCIATION, a non-profit corporation, INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION, an unincorporated association, and I.L.W.U. LOCAL No. 10,
Respondents.

APPENDIX TO RESPONSE TO PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

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Appendix

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San Francisco

In The United States District Court
For The Northern District of California

Civil No. 42284 GBH

GEORGE B. WILLIAMS, et al.,

Plaintiffs,

v.

PACIFIC MARITIME ASSOCIATION, et al.,

Defendants.

Findings of Facts and Conclusions of Law

INTRODUCTION

Few cases which survive the jousts and skirmishes of pre-trial and proceed to the rigor of trial can be disposed of in a summary manner, and the instant case is certainly no exception. The voluminous briefs and files in this matter represent the culmination of years of preparation and weeks of difficult trial.

All counsel are warmly congratulated by the court for their patience, dedication and thoroughness. No party could have finer representation than was afforded the participants in these proceedings.

This cause came on regularly for trial before the Court sitting without a jury, on January 14, 1974, and continued with the taking of live testimony until July 3, 1974.

The plaintiffs were represented by Arthur Brunwasser, Esq., and Fred Kurlander, Esq. Defendant Pacific Maritime Association (hereinafter "PMA") was represented by Richard Ernst, Esq., Dennis Daniels, Esq., and Kendall DeBevoise, Esq., of the firm of Ernst & Daniels. Defendants International Longshoremen's & Warehousemen's Union and ILWU Local No. 10 (hereinafter sometimes "Union defendants") were represented by Richard Gladstein, Esq. and Norman Leonard, Esq., of the Firm of Gladstein, Leonard, Patsey & Andersen.

The trial was bifurcated, and this first stage was concerned with the issue of liability only. Oral and documentary evidence was introduced by and on behalf of each of the parties. Thereafter, counsel for all parties prepared a written Stipulation as to Testimony which was filed on February 28, 1975. Subsequently, further documentary material was incorporated into the record.

After all parties had rested, the parties filed their post-trial briefs and proposed Findings of Fact and Conclusions of Law, and the cause was then submitted to the Court for decision.

The Court has considered all the evidence and testimony adduced at the trial and in the Stipulation and has studied the briefs of counsel. Being fully advised in the premises, and on the basis of all the evidence not subject to legal objection, this Court now makes its Findings of Fact and Conclusions of Law as follows:

FINDINGS OF FACT

The parties.

1. Plaintiffs are former limited registration Class B longshoremen who commenced their employment in June and August 1959 in the Port of San Francisco. They were discharged or "deregistered" from this employment on June 17, 1963.

2. Defendant Pacific Maritime Association is a non-profit California corporation composed of all or substantially all of the major stevedoring employers on the Pacific Coast and in the Port of San Francisco. It is an "employer" within the meaning of § 2(2) of the National Labor Relations Act, 29 U.S.C. § 152(2).

3. Defendant International Longshoremen's and Warehousemen's Union (the "ILWU") is the certified collective bargaining representative for all longshoremen employed by the members of PMA and is recognized as such under § 2(5) of the Act, 29 U.S.C. § 152(5).

4. The plaintiffs were among the longshoremen comprising the unit represented by the ILWU as the certified collective bargaining representative.

5. Defendant ILWU Local No. 10 ("Local 10") is the chartered local affiliate of defendant ILWU for longshoremen working in the Port of San Francisco.

Collective bargaining through 1948.

6. Since 1934, there has been in continuous existence a collective bargaining relationship between the PMA ("PMA is used herein to refer to the Pacific Maritime Association and its predecessors, including the Waterfront Employers Association of San Francisco and the Waterfront Employers Association of the Pacific Coast and the Shipowners Association of the Pacific Coast) and the ILWU ("ILWU" is used herein to refer to the ILWU and its predecessor from 1934 to 1938, International Longshoremen's Association, District 38).

7. In 1934, there was a bitter longshore strike on the West Coast. It was finally concluded on the basis of an award entered by the National Longshoremen's Board. This was a board appointed by President Roosevelt. Its chairman was Archbishop Hanna. The other members were O. K. Cushing, Esq., and Edward F. McGrady, Assistant Secretary of Labor.

8. A principal demand of the longshoremen striking in 1934 was that there be a limitation on indiscriminate entry into the longshore work force, with a limited group of longshoremen to have preference in the assignment of work and to be assigned to jobs through a hiring hall to be operated by the longshoremen.

9. The Archbishop Hanna award established the system of registering longshoremen, so that the longshoremen with significant seniority were placed on a list of registered longshoremen and were given first preference for all of the work available to longshoremen in the port. This award also called for the use of a dispatching hall for the dispatching of longshoremen to work. It provided that the hall would be under the joint control of the employers and the union, but that the dispatchers themselves would be elected by the union.

10. The Archbishop Hanna award provided for a system of labor relations committees. These committees were given the administrative function of operating the dispatching halls. In addition, they were given the duty of investigating and resolving grievances that either the union or the employer might bring against the other party.

11. The fundamentals of the registration system, which were established in 1934, have been embellished and refined since that date.

12. By 1938, there were three groups of longshoremen. The group with the highest seniority were those that had full registration under the existing contract; they had first call on all the work. A second group of employes had second preference for the work and had a seniority status in the industry giving them some continuity of employment. The third group embraced the workers who came and went as peaks on longshore work required the use of extra men.

13. For the fifteen years from 1934 through 1948, the nature of the PMA-ILWU collective bargaining was one of continuous guerrilla warfare.

14. In 1948, a particularly bitter and extended strike occurred in the longshore industry on the West Coast.

Collective bargaining after 1948.

15. After 1948, the nature of the ILWU-PMA collective bargaining was sharply different. The theme of the collective bargaining between the ILWU and the PMA between 1948 and 1963 was that there should be joint efforts to find a way to preserve and develop the West Coast stevedoring industry so that (a) increasingly improved wage scales for the work performed and continuity of employment could be provided to the registered longshore work force, and (b) the employers could achieve a stable industry enabling them to operate their businesses on a continuing basis in a manner efficient enough so as to provide a fair return on their investment while generating the cash flow necessary for such a wage scale.

16. One of the enlightened, forward-looking steps that the parties achieved after the 1948 strike was the milestone agreement for mechanization and modernization of the West Coast waterfront industry (the "ILWU-PMA M & M Agreement"). By this contract amendment, the ILWU agreed to the introduction of labor-saving devices and the elimination of certain restrictive work practices and it agreed to the basic demand of the employers that the longshore work force should be upgraded. The M & M Agreement made significant achievements toward this goal. By it, the employers agreed to make payments of $29 million to mitigate the impact on employes of technological unemployment, and agreed to assign longshoremen to all the new equipment and to give them the necessary training to hold jobs in a much more "capital intensive" mode of operations. It was hoped that this would end a long and troubled history of labor discord on the West Coast waterfront.

17. The ILWU-PMA collective bargaining contract in effect during all the periods material hereto included, *inter alia,* a basic contract document entitled "Pacific Coast Longshore Agreement" (hereinafter "PCLA"), local working rules, local dispatching rules, a Memorandum with respect to Registration and Deregistration adopted in 1958, minutes of the San Francisco Joint Port Labor Relations Committee (hereinafter "JPLRC") and rules, determinations and procedures adopted by the JPLRC, minutes of the Northern California Joint Area Labor Relations Committee (hereinafter "Joint Area LRC") and rules, determinations and procedures adopted by the Joint AREA LRC, minutes of the Joint Coast Labor Relations Committee (hereinafter "Joint CLRC") and rules, determinations and procedures adopted by the Joint CLRC, decisions of area and coast arbitrators, determinations of the parties, and the industrial common law of the shop developed under this particular contract during the period since 1934.

18. The ILWU-PMA collective bargaining contract makes provisions for a Joint Port Labor Relations Committee for each port. one of these being the JPLRC, a Joint Area Labor Relations Committee for each of the four areas of Washington, Oregon, Northern California and Southern California, respectively, one of these being the Joint Area LRC, and the Joint Coast Labor Relations Committee (the Joint CLRC).

19. These labor relations committees have duties in the maintenance and operation of the dispatching hall, in the control of the registered lists of the men in the port, in administering the contract, in investigating and adjudicating all grievances and disputes, including complaints against longshoremen and other disputes involving the ILWU-PMA contract. Generally, the JPLRC has the authority to maintain and operate the San Francisco dispatching hall and to exercise control of the registered list in San Francisco and to investigate and adjudicate all grievances and disputes arising with respect to operations in San Francisco. The

JPLRC had a special B-list panel that handled issues as to the registration status of limited registration Class B men for the period relevant hereto, including the time when the applications submitted in 1958 were being reviewed to select those applicants who should be granted Class B limited registration status and the time when the B-list panel members participated in the conferences with plaintiffs and other limited registration longshoremen in July of 1963. The Joint AREA LRC has an intermediate appellate authority with respect to certain disputes. The Joint CLRC has ultimate control over the registered lists, has appellate authority with respect to decisions in the lower labor relations committees, and has additional authority with respect to the carrying on of collective bargaining during the period of the contract's term.

20. Beginning on or about January 1, 1952, the San Francisco dispatching hall was operated through the "low-man-out" system of equalizing work opportunities. Under this LMO system, each man kept a record of the hours that he worked and the other hours chargeable to him under the procedures governing this system, the resulting figure being the individual's "accumulated LMO hours". Every three months, a new work equalization period began at which time each of the registered men started out afresh from a zero accumulated LMO hours figure. During the work equalization period, the men were dispatched on a "low-man-out" system, under which the man whose work number was correctly entered on the master dispatch sheets used in the dispatching hall at the lowest accumulated LMO hours figure was entitled to the first dispatch to a job. The integrity of the system depended upon the honesty and accuracy of the individual's records kept by each longshoreman and upon his using the correct accumulated LMO hours figure in his use of the dispatching hall. This system was described at the trial as an "honor system".

21. It was possible for an individual registered longshoreman to get an advantage over his fellows by being dispatched at an

accumulated LMO hours figure that was below his true LMO hours figure. To take a job under these circumstances was to "drop LMO hours". Local 10 employed record checkers who from time to time reviewed the records as to the dispatch of longshoremen to determine whether or not any Class A full registration longshoremen had dropped an excessive number of LMO hours.

The status of the limited registration Class B longshoremen.

22. In the 1950's, agreed procedures were developed through bargaining between the ILWU and the PMA to establish a formal limited registration Class B category of longshoremen. These men were to have a probationary or second-class status. They were to have the second preference in the amount of available work. It was agreed that the limited registration Class B longshoremen would be selected by formal procedures, including review of detailed information as to their past history and the use of physical examinations. These men would hold limited registration Class B status subject to stricter rules and more stringent penalties than were applicable to the full registration Class A longshoremen under the contract and common law of the shop that had developed over the years since 1934, which would continue in effect but be applicable only to the longshoremen with a seniority status established through years of service, the fully registered Class A longshoremen.

23. In keeping with the nature of the status of the limited registration Class B longshoreman, the contract provided that he could be deregistered for any cause, except only if such action would constitute a violation of § 13 of the PCLA, the contract's provision prohibiting arbitrary action, to wit: discrimination "in connection with any action subject to the terms of the Agreement either in favor of or against any person because of membership or nonmembership in the Union, activity for or against the Union or absence thereof, or race, creed, color, national origin or religious or political beliefs".

24. The grievance-arbitration procedure for § 13 grievances was set out in § 17.4 of the PCLA. This procedure gave the individual member of the bargaining unit the right to process a claim that § 13 had been violated. He was given full control of his grievance. He could carry it to the Joint CLRC and on to the Coast Arbitrator if he wished to do so. He could use his own counsel in the proceedings before the Coast Arbitrator. The union could not prevent him from processing his grievance, but he and his union could agree to proceed together on his grievance claim.

25. The parties agreed that there would be a review of the full record of each Class B limited registration longshoreman at the time he could apply for promotion and that he could be deregistered if the JPLRC found cause therefor upon consideration of his work history and all phases of his qualifications to do all of the work of longshoremen, including consideration of ability, efficiency, experience, regular availability and other relevant factors.

26. In 1958, the parties agreed that a group of limited registration Class B longshoremen should be added to the longshore work force in San Francisco. To this end, an application form was developed and notices issued that men could apply for Class B limited registration status in the port of San Francisco. Some 9,000 applications were filed. Plaintiffs were among those who filed applications at this time. The group of limited registration Class B men of which plaintiffs were a part included all of the limited registration Class B longshoremen holding such registration status from 1959 until after August 1, 1963.

27. The application for Class B limited registration, which each plaintiff and all the other applicants for Class B limited registration status signed and filed in 1958, notified the applicant that the job for which he was applying would not have the same security as that of a Class A fully registered longshoreman, but

would be subject to the rules and determinations of the joint labor relations committees and the parties. The plaintiffs testified that they paid little attention to this information.

28. At the time that each of the limited registration longshoremen who were registered in 1959 was advised that he should come to the JPLRC to arrange for his physical examination if he chose to have his application considered further—and on the letter so advising the applicant—he was notified that he was required to make a pro-rata share payment to the union each month to cover his share of the costs of the dispatching hall, the labor relations committee, etc., and that he could be deregistered for failing to pay the established pro-rata amount or for failing to live up to any JPLRC rules or determinations. Although the plaintiffs were so notified at this time, they testified that they paid little attention to this information.

29. There were JPLRC rules and determinations that a limited registration Class B man was not to drop LMO hours in using the honor system for assigning work to longshoremen on an equal share basis, that a limited registration Class B longshoreman was not to participate in work disruptions (and especially not in any in which the drinking of alcohol was a significant factor), that a limited registration Class B longshoreman was to pay his pro-rata on time each month, and that the limited registration Class B longshoreman was to maintain 70% availability. The plaintiffs admitted that they did not pay attention to the fact that these rules were rules and determinations of the JPLRC.

30. At about the time he first began to do longshore work as a limited registration Class B longshoreman, each of the plaintiffs was given written notice that his record as a longshoreman would be reviewed at the time he would be considered for promotion and that misconduct for such things as dropping LMO hours, failing to maintain availability, or being involved in work

disruptions would count against him at that time. The plaintiffs stated that they paid little attention to this information.

31. In July 1959, each of the plaintiffs was sent a copy of the provisions of the Memorandum on Registration and Deregistration, stating that he could be deregistered for any cause other than by an action that would be prohibited by § 13 of the contract. The plaintiffs stated that they paid little attention to this document.

32. From the day that each Class B man gained limited registration, he was repeatedly and clearly informed that he was in a second-class category, that he had to keep his "nose clean", that he should live up to all the rules, that he could be deregistered for failing to live up to the rules, and that the union and the employer were keeping records with respect to his misconduct to which they would give consideration when the time came for him to be reviewed for promotion.

33. The limited registration Class B longshoremen were informed early in 1960 that the union was in agreement with the employer that a man who gave cause for deregistration would be deregistered rather than promoted to full registration Class A seniority status when his record was reviewed for promotion consideration.

34. Each limited registration Class B longshoreman was duly and repeatedly informed that—if he was to be assured of promotion to the coveted seniority status of a Class A fully registered longshoreman—it was necessary that he maintain an absolutely clean record as to "misconduct" contrary to any rule or determination of the JPLRC applicable to limited registration Class B longshoremen.

35. As a result of the information given to the plaintiffs, in written and oral forms, each of the plaintiffs was and is chargeable with knowledge that misconduct of all of the types considered by the JPLRC in determining who would be promoted and

who would be deregistered in the spring of 1963 was misconduct for which the limited registration Class B longshoremen could be deregistered.

36. In 1960, Local 10 reviewed the records of over 300 limited registration Class B longshoremen before finding 163 of them whom it would agree were eligible under the contract for promotion. In doing so, it reviewed each individual's record as to the time of paying his pro-rata and as to how many LMO hours he had dropped.

The 1960-1962 period.

37. During the period that plaintiffs were limited registration longshoremen, beginning with June or August, 1959, and continuing until June of 1963, the JPLRC from time to time accumulated the data as to the availability of the Class B limited registration longshoremen and gave notices of deregistration to all those who appeared to have failed to meet the 70% availability standard.

38. Each of the individual longshoremen involved was advised that he could file a grievance with respect to the notices of deregistration for poor availability, and 339 of the limited registration Class B longshoremen (including 29 of the plaintiffs participating in this proceedings) did so during the period of these reviews.

39. Through the handling of grievances in response to notices of deregistration for poor availability and the handling of other grievances with respect to on-the-job complaints, the JPLRC developed a due, fair and reasonable adjudicative technique that was appropriate for finding out actual facts with respect to the complaints regarding the longshoremen and for applying the contract's terms to the facts so found. This procedure was not an adversary procedure, such as is used in the Anglo-American court system, but it was an investigative technique in which the collective bargaining parties and the individuals involved carried on

informal procedures to find facts as to a longshoreman's conduct relevant to the issues under the contract. This procedure was fair, due and appropriate under the circumstances and in view of the history in this industry and the general practices of collective bargaining in American industry.

40. As a result of the use of this collective bargaining adjudicative technique, many of the limited registration Class B longshoremen, including 29 plaintiffs, who were given notice of deregistration for poor availability were restored after hearings to registration status, but others were deregistered. In some cases the deregistration was sustained, although the individual longshoreman had not previously been brought before the JPLRC on a poor-availability deregistration issue. In many cases, men were given a second opportunity to maintain 70% availability where an acceptable reason for poor availability was shown at the hearing before the JPLRC. In some cases, individuals were given a third or even a fourth chance to return to registered status after having had a record of poor availability where a good and sufficient reason for such an unusual work history was provided. An industrial injury could provide such an excuse.

41. During the period in 1960 when Local 10 was making studies as to whom it might agree were eligible under the contract for promotion to fully registered Class A status, the Joint CLRC exercised its ultimate control of the registered lists in the ports in California, Oregon and Washington by freezing registration and freezing promotion from limited registration Class B status to the coveted seniority status of Class A full registration. The purpose of this freeze was to avoid making changes in the work force that might have to be reversed later because the need for men in the longshore work force had changed as a consequence of the Mechanization and Modernization programs being put into effect. This was a rational and reasonable exercise of discretion by the ILWU and the PMA as the parties to the collective bar-

gaining contract in carrying on their good-faith collective bargaining in light of the uncertainties in manpower requirements created by the expectation of changes in operations under the M & M Agreement.

42. Approximately one year after the freeze, a motion was submitted by a group of San Francisco longshoremen asking for the promotion of the limited registration Class B longshoremen who had good records. At this time, plaintiff Stanley Weir made a report to the limited registration Class B longshoremen in San Francisco, in which he praised this resolution. He stated that it was then well known that only the better longshoremen would be promoted and that those who failed to live up to the rules that had been publicized as defining misconduct of longshoremen would not be promoted.

43. Factions developed within Local 10 on the subject of promotion of the limited registration Class B men. One group included Selden Osborne, Asher Harer, Hal Yanow, Frank Stout, James Kearney and others; it favored the granting of union membership to the limited registration Class B men and their dispatch with the fully registered Class A longshoremen, even though this would be in violation of the contract and the law. Another faction included Harry Bridges, William Chester, Robert Rohatch, Tommie Silas and others; it was of the opinion that the union should comply with the contract with the PMA and promote only on the basis of joint action between the ILWU and the PMA.

44. The 1962 coast caucus of the ILWU directed the representatives of the longshoremen to negotiate with the employers to lift the freeze.

45. In the contract negotiations of 1962, the ILWU negotiators reached agreement with the PMA that the subject of the freeze on the promotion of the limtied registration Class B longshoremen to fully registered Class A status—and the freeze on adding new limited registration Class B men—would be referred to the Joint CLRC for further detailed collective bargaining.

The explicit promotion standards.

46. By September 1962, the Joint CLRC had come to an agreement (a) that the parties should move toward lifting the freeze and (b) that the PMA had obtained a commitment—which the ILWU was bound to honor in carrying on collective bargaining with respect to the conditions under which the freeze would be lifted—that there should be an upgrading of the longshore work force as part of the program for selecting limited registration Class B men for promotion.

47. In the fall of 1962, Local 10 gave consideration to the various types of misconduct that ought to be considered in determining who would be promoted and who would not be promoted to fully registered Class A status. The preliminary discussions as to such considerations included the subjects of the time of paying pro-rata, the dropping of LMO hours, and on-the-job complaints.

48. During the period from October to December, 1962, the staff of the San Francisco office of the PMA reviewed the records of all of the limited registration Class B longshoremen with respect to on-the-job complaints and availability, and submitted a report to the union representatives of the facts found by this review.

49. Early in December 1962, the Joint CLRC reached a formal agreement for the lifting of the freeze on promotion of limited registration Class B longshoremen to the coveted senority status of Class A fully registered men, with the provision that the whole subject would remain under the control of the Joint CLRC and that it would have a sub-committee make studies of various facets of the overall registration problem.

50. In December 1962, there was a meeting between San Francisco representatives of the ILWU and the PMA to exchange facts with respect to the employment records of the limited registration Class B longshoremen and to discuss which causes for

deregistration should be pardoned and which should not. At that time, these representatives had data as to late payment of pro-rata and the JPLRC actions with respect to misconduct of the limited registration Class B longshoremen during the period that they had been registered for waterfront work. The representatives also discussed giving consideration to actual availability records and to misconduct in the hall by dropping LMO hours.

51. In December 1962, the union representatives on the Joint CLRC advised the members of Local 10 in San Francisco that the ILWU side of the Joint CLRC would support a program for promoting 400 limited registration Class B longshoremen in San Francisco to the coveted seniority status of the Class A fully registered man.

52. In January 1963, the union representatives on the Joint CLRC proposed that there be a preference in reviewing men for promotion based on their union affiliations or lack thereof, but the PMA refused to accept such a system of discrimination. PMA's protest prevailed, and no such discrimination occurred.

53. In early 1963, Local 10 proceeded to make studies to ascertain facts as to misconduct in the dispatching hall shown by the number of LMO hours dropped by each of the individual limited registration longshoremen.

54. At the end of January 1963, each longshoreman on the Pacific Coast was given written notice with his paycheck of his right to handle a grievance in his own way, subject to his own control, up through the grievance procedure and up to the Coast Arbitrator (under § 17.4 of the PCLA) with respect to any action that was contrary to his interests and that he claimed was tainted by any arbitrary action on the part of the union or the employer as a result of any claimed discrimination in connection with any action subject to the terms of the Agreement either in favor of or against any person because of membership or nonmembership in the Union, activity for or against the Union or the absence thereof, or race, creed, color, national origin or religious or political beliefs.

55. During the period from January 1963 to approximately May 8, 1963, the parties to the ILWU-PMA contract carried on collective bargaining negotiations as to exactly how the provisions of the 1958 Memorandum on Registration and Deregistration and particularly the provision of § 9(xi) thereof under which any limited registration Class B longshoreman could be deregistered if the JPLRC found any cause therefor would be applied. Through hard bargaining on this subject of explicit promotion standards, the ILWU was able to persuade the PMA to broaden the area of the joint pardons for violations of the rules and determinations of the JPLRC, violations of the contract, and other misconduct on the job and in the dispatching hall. As a result thereof, the number of limited registration longshoremen who were not promoted was decreased from approximately 150 to 82.

56. In the hard bargaining between the PMA and the ILWU with respect to the explicit promotion standards, there was good-faith collective bargaining in the ordinary course on the part of each of the two parties. The evidence establishes that neither the ILWU nor Local 10 proceeded in such collective bargaining with any motive of malice, hostility, ill-will, bad faith, animosity or invidious considerations toward any limited registration Class B longshoreman, including any plaintiff, or engaged in any arbitrary, discriminatory or invidious conduct as to any such person.

57. The PMA position that it was entitled to an upgrading of the longshore work force was based, fundamentally, on the provisions of § 17.851 of the PCLA, which reads:

> "17.851 More stringent rules and penalties than those provided hereinabove that are applicable to limited registered longshoremen or to nonregistered longshoremen or to both such groups may be adopted or modified by unanimous action of the Joint Coast Labor Relations Committee and, subject to the control of such Committee so exercised, more stringent rules and penalties applicable to limited registered men or nonregistered men or to both groups that are pro-

vided in existing and future local joint working, dispatching and registration rules and procedures or by mutually agreed practices shall be applicable."

Pursuant to this understanding, and to carry out its intent, and pursuant to other contract provisions (a) the 1958 Memorandum as to Registration and Deregistration—including its provisions for a review of the entire record of a limited registration Class B longshoreman at the time he is considered for promotion and the § 9(xi) provisions that such a longshoreman can be deregistered for any cause—was adopted; (b) the JPLRC prepared the applications for limited registration Class B status, issued them, issued its letter of February 25, 1959, agreed to the provisions set out in its minutes of June 17, 1959, and distributed excerpts from the 1958 memorandum and these minutes; and (c) the union and the JPLRC representatives warned plaintiffs of their need to obey all the rules on pain of deregistration.

58. The evidence establishes that the conduct of both the ILWU and its Local 10 in the negotiations leading to and agreeing upon the explicit promotion standards was carried on with motives only of good faith and honesty in an effort to reach the best agreement for the interests of the collective bargaining unit as a whole and without in any way sacrificing the meritorious positions of any of the individuals in the bargaining unit.

59. During the negotiations, the PMA carried on a good-faith effort to see to it that there would be an upgrading of the longshore work force and to enforce the commitment obtained from the ILWU for good and adequate consideration that it would participate in such an upgrading program.

60. In the spring of 1963, through the good faith collective bargaining described above, the parties reached agreement on the explicit promotion standards which included four substantive standards. They agreed that a limited registration Class B longshoreman would not be eligible to be promoted (a) if he failed

to meet the 70% availability standard, unless he established a good and satisfactory reason therefor, or (b) if he dropped 10 or more LMO hours, or (c) if he had been suspended by the JPLRC for being involved in a work disruption in which alcohol was a significant factor, or (d) if he had failed to pay his pro-rata on time on 8 or more occasions or, if he had an otherwise blemished record, had failed to pay his pro-rata on time on 6 or more occasions. The explicit promotion standards also included provision that anyone who failed to meet these standards would be deregistered and that the standards should be uniformly applied to all applicants from the limited registration Class B list.

61. On the basis of all of the evidence not subject to legal objection, this Court finds that the explicit promotion standards were rationally related to the needs of the industry as they existed in the spring of 1963 and were not arbitrary, capricious, in bad faith, nor were they a pretext for engaging in any unlawful, illegal or improper conduct against any limited registration Class B longshoreman, including the plaintiffs individually and as a group. The parties reasonably and in good faith believed that they were, and the Court specifically finds that they were, a fair, honest and reasonable resolution of the issues presented by the manpower needs of the industry for competent and reliable workers under the Mechanization and Modernization program as these needs appeared to them to exist, and as in fact they did exist, in the spring of 1963.

62. As they provided in the representation of the longshoremen in all matters relevant to this proceeding, the ILWU and its Local 10 provided fair representation to all of the employes in the collective bargaining unit - including each of the limited registration longshoremen and accordingly each of the plaintiffs - in negotiating the explicit promotion standards. In this representation, neither the ILWU nor its Local 10 acted on the basis of any malice, hostility, bad faith, animosity, or ill-will toward any

of the persons in the collective bargaining unit, including the plaintiffs as a group and each of them, and neither of the union defendants engaged in any invidious, arbitrary, discriminatory, capricious, irrational or unfair activity in regard thereto.

The implementation of the explicit promotion standards.

63. During the spring of 1963, the JPLRC reviewed all the data available to it and reached findings of fact as to the compliance of each of the limited registration Class B longshoremen with the four substantive promotion standards.

64. On March 28, 1963, the JPLRC sent notices of deregistration to each of the 88 limited registration Class B longshoremen whose record indicated that he had failed to maintain 70% availability in one or more 30-day periods since the previous check on availability in April 1962. Grievances with respect to these notices were filed by 76 of those sent such notices.

65. At its meeting on April 24, 1963, the JPLRC held hearings on these grievances and made determinations in respect to 88 cases. The final decisions with respect to 16 cases were that the men be deregistered; with respect to 57 cases, the decisions were that the man be reinstated with probation; with respect to 6 cases, the decisions were that the man be reinstated without probation; and 9 cases were held over for medical reasons. On the basis of all the evidence not subject to legal objection, the Court finds that these procedures were due, fair, appropriate and reasonable.

66. Due notice was given to the limited registration Class B longshoremen early in May 1963 that they could apply for promotion to fully registered Class A status, that those who did not qualify for promotion would be deregistered, and that any limited registration Class B man was entitled to use the grievance machinery in case he was notified that the information in the hands of the JPLRC indicated that he was not qualified for promotion or had given cause for deregistration.

67. The JPLRC issued applications for promotion, and all limited registration Class B longshoremen filed such applications in May 1963, with only a few exceptions. Plaintiffs James Green, James Lankford and Thomas E. Nisby did not even file application for promotions. All other plaintiffs did file applications for promotion to Class A full registration status.

68. During the period beginning no later than on or about May 10, 1963, Local 10 of the ILWU had made arrangements under which it provided Asher Harer to act as ombudsman-advocate on behalf of each of the limited registration Class B longshoremen who had failed to receive notice that he had satisfied all of the explicit promotion standards. Asher Harer was a member of Local 10 who had had experience as a record checker for over 10 years and who was highly sympathetic to the plaintiffs and as ombudsman-advocate on behalf of them and other limited registration Class B longshoremen he conducted himself in an enterprising and industrious manner. He was a member of a faction in Local 10, apparently opposed to that including Harry Bridges, William Chester, Robert Rohatch, Tommie Silas, J. Walker, Albert James, Carl Smith and others.

69. Asher Harer as the ombudsman-advocate carried on a vigorous effort, for long hours over many weeks of time, to assist each of these limited registration Class B longshoremen in getting full information as to the facts that appeared to prevent such longshoreman's being found to have met all of the explicit promotion standards, to gather evidence that would be helpful to the limited registration Class B longshoreman in proving that he had satisfied all these standards, and in developing arguments to support his grievances.

70. The ombudsman-advocate presented evidence that he gathered as to 30 or more individual cases to the union representatives on the B-list panel of the JPLRC. and the members of that panel exchanged evidence with the ombudsman-advocate. As a

result of these cooperative efforts, agreement was reached among the members of the B-list panel of the JPLRC and the ombudsman-advocate as to 28 individuals. They agreed that 9 limited registration Class B longshoremen who had previously apparently failed to satisfy the explicit promotion standards did actually satisfy these standards. These men were subsequently promoted. As to the other 19, they agreed that they were properly deregistered. There was disagreement between the ombudsman-advocate and the members of the JPLRC with respect to two limited registration Class B longshoremen, both of whom are plaintiffs in this proceeding.

71. By May 15, 1963, the JPLRC had determined that approximately 408 of the 560 limited registration Class B longshoremen then registered in San Francisco had satisfied all of the explicit promotion standards.

72. By May 15, 1963, the JPLRC had determined that it needed more information with respect to the remaining applicants for promotion to the coveted seniority status of a fully registered Class A longshoreman.

73. Despite the fact that it had not then reached initial determinations on many of the applications on which such determinations could have been made, the JPLRC on May 15, 1963 agreed to promote the 408 limited registration Class B longshoremen who appeared to be in full compliance with the explicit promotion standards. On May 16, 1963, a substantial number of the 408 men on the JPLRC list of those apparently qualified for promotion were initiated into the Local 10 membership.

74. On the morning of May 17, 1963, the San Francisco longshore dispatch hall dispatched the 408 men on the JPLRC's May 15, 1963, list with the fully registered Class A longshoremen.

75. On May 17, 1963, the Joint CLRC exercised its ultimate control over the registered lists by setting aside the action of the JPLRC in promoting the 408 men to full registration Class A

status prior to the time it had reached initial determinations as to the status of the remaining limited registration Class B longshoremen. The Joint CLRC took the view, which this Court finds to have been fair and reasonable, that the implementation of the explicit promotion standards should not result in two groups of men among those promoted to the coveted seniority status of Class A full registration longshoremen in 1963 on the basis of whether they were promoted on May 15, 1963 or at a later date.

76. During the period of approximately three weeks following May 15, 1963, the JPLRC reached initial determinations with respect to virtually all of the limited registration Class B longshoremen who were not among the 408 listed in the May 15, 1963 minutes. The JPLRC held meetings at which individual longshoremen appeared and gave information. The JPLRC made a double check as to the LMO hours dropped by anyone who appeared to have dropped an excessive number of LMO hours. The JPLRC continued to study the information submitted by those men who had appeared at the hearings as to availability information in support of their cases.

77. By June 10, 1963, the members of each side of the B-list panel of the JPLRC had come to agreement as to their side's position as to what was the correct initial determination with respect to the 127 limited registration Class B longshoremen who were not on its list set out in the minutes of its meeting of May 15, 1963, or on the list of 16 of the limited registration Class B men deregistered for poor availability or the list of 9 men who were to provide further medical information that were in the minutes of its meeting of April 24, 1963, and had revised the May 15 initial determinations as to two of the 408 men. The B-list panel members on each side had communicated with the other side of the JPLRC, and both sides were in agreement as to the facts as to every limited registration Class B longshoreman. As a result, there were initial determinations on all the

applications of the limited registration Class B men except for individuals then in the armed services, individuals who had grievances pending as to pilferage, and individuals required to provide medical information.

78. By June 13, 1963, the respective sides of the JPLRC had advised their counterparts on the Joint CLRC of what had been done and the Joint CLRC had informally approved the results of the actions in administering the registration lists for the port of San Francisco.

79. In view of another question raised within Local 10, the JPLRC also decided that it should institute procedures to find out if there was any evidence that any limited registration Class B longshoreman who did not meet all the explicit promotion standards was included in the lists they were preparing to state those who were being promoted. It decided that it would correct any error of this type that was shown to exist.

80. During the period prior to June 17, 1963, the members of the JPLRC agreed on a new form of letter to be sent to the limited registration Class B longshoremen whose records indicated that they did not meet the explicit promotion standards. It was agreed that this form of notice would take the place of the form incorporated in the Memorandum as to Registration and Deregistration adopted by this same committee in 1958.

81. On June 17, 1963, the JPLRC formally concluded its work in administering the limited registration Class B list in San Francisco by sending out notices to 78 limited registration Class B longshoremen that they had been deregistered, by notifying 448 longshoremen that they had been promoted to the coveted seniority status of a Class A fully registered longshoreman, and by listing the individuals as to whom further consideration would have to be given before a final determination could be made because the man was in the armed services, or the man had a grievance pending as to pilferage, or because the man had

to provide information as to his future medical condition. Using the form of notice that it had adopted during the month of June, 1963, the JPLRC sent notices of deregistration to the 78 men. This notice advised each man that he had a right to file a grievance and that the grievance would be considered by the JPLRC.

82. The JPLRC gave public notice that it would welcome any evidence indicating that any limited registration Class B longshoreman who had not met any express promotion standard had been promoted in error. No evidence was submitted to indicate that any such errors had been made.

83. In reaching decisions as to the facts relevant to the explicit promotion standards in the case of each of the limited registration Class B longshoremen—including each of the plaintiffs—and in the application of the explicit promotion standards thereto, the ILWU and its Local 10 provided fair representation to all of the persons in the collective bargaining unit, including each of the plaintiffs. As they provided in the representation of the longshoremen in all matters relevant to this proceeding, the ILWU and its Local 10 provided fair representation to all of the employes in the collective bargaining unit—including each of the limited registration longshoremen and accordingly each of the plaintiffs—in negotiating the explicit promotion standards. In this representation, neither the ILWU nor its Local 10 acted on the basis of any malice, hostility, bad faith, animosity, or ill-will toward any of the persons in the collective bargaining unit, including the plaintiffs as a group and each of them, and neither of the union defendants engaged in any invidious, arbitrary, discriminatory, capricious, irrational or unfair activity in regard thereto.

The adjudication of plaintiffs' grievances.

84. Grievances with respect to the notices of deregistration dated June 17, 1963, were filed by 57 limited registration Class B

longshoremen, including all of the plaintiffs except Thomas Nisby and Alfred Straughter.

85. Each of the limited registration Class B longshoremen who had been denied promotion and who had filed a grievance was notified that the hearing on his grievance would be held at Pier 24 in San Francisco on July 9, 10 or 11, 1963.

86. During the period up to the time of each man's individual hearing, the union provided each man with information as to the issues of fact that were significant to his notice of deregistration, and Asher Harer continued to act as ombudsman-advocate to assist each of these men in regard to his grievance.

87. Each of the plaintiffs who had filed a grievance appeared at Pier 24 before the JPLRC on July 9, 10 or 11, 1963. Each was notified of the reason or reasons that indicated that he had not satisfied some one or more of the explicit promotion standards. Each was given an opportunity to challenge the factual basis for the reason given at a conference with JPLRC representatives. Such conferences with respect to dropping of LMO hours were scheduled to be held at the dispatching hall records office. and the conferences with respect to the time of payment of prorata were scheduled to be held at the office of the union where records as to these payments were maintained.

88. During the period from July 16 through July 18, 1963, conferences were held with each of the limited registration Class B longshoremen who wished to have a conference with respect to the factual issues of which they were given notice at their respective hearings on July 9, 10 and 11. Individual representatives of the JPLRC—from both Local 10 and the PMA—met with each individual man and went over the facts in his case with him. With the exception of Frank Nereu, there was no disagreement as to the basic facts. Stanley Weir disagreed with the inferences drawn from the evidence. Anthony Melvin disagreed with the

decision that certain hours he dropped for a short time were counted against him. Antonio Cafeteiro and Roger Fleeton had a disagreement with the committee as to the ultimate fact to be found on the basis of the evidentiary facts as to flopping on Sundays.

89. James Edwards, a representative of PMA on the JPLRC B-list panel, participated in the conference with Stanley Wier. They went over the evidence in detail. James Edwards determined that the evidence submitted by Stanley Weir in support of his claim that he did not square off a second time in the week of October 8-15, 1962, was insufficient to overcome the evidence before the JPLRC that he had squared off two times in this week, and James Edwards concluded that Stanley Weir had indeed dropped in excess of 10 LMO hours in violation of the rules and determinations of the JPLRC. The Court credits the testimony of James Edwards that he believed in good faith that Stanley Weir had actually dropped hours on this occasion.

90. As a result of the reviews carried on in these procedures in July, 1963, by the JPLRC, four limited registration Class B longshoremen received decisions setting aside their deregistrations. Twenty-six other limited registration Class B longshoremen obtained modifications in the findings as to the exact facts involved in their cases, but the modifications as to these men were insufficient to establish that the men had satisfied all the explicit promotion standards.

91. On all of the evidence not subject to legal objection, this Court finds that each of the plaintiffs did in fact engage in misconduct of such type and amount as to establish that he failed to satisfy one or more of the explicit promotion standards.

92. The decisions of the JPLRC in July, 1963, were reached through the same adjudicative process as that used by the JPLRC for issues of similar gravity and factual complexity during the period from 1959 to 1963, including issues as to whether or not an individual limited registration Class B longshoreman should

be deregistered or should be permitted to continue to work in the industry. This procedure is one it had followed in the past with respect to men who appeared to have failed to satisfy the 70% availability rule and men charged with other contract violations. The procedure that was followed had developed over the years of collective bargaining in the industry. This was a normal grievance process for this type of issue. The process employed was a reasonable, due, fair and appropriate grievance process for the adjudication of such issues.

93. On July 16, 1963, Local 10 instructed its representatives on the JPLRC to move in the next JPLRC meeting that the deregistrations of the limited registration Class B longshoremen who had failed to meet the explicit promotion standards only because of the dropping of LMO hours or the late payment of pro-rata be permitted to remain on the limited registration Class B list subject to a suspension and that they thereafter be promoted. Such motions were placed before the JPLRC by the Local 10 representatives. A disagreement was reached on the motions. It was the position of the PMA representatives that the JPLRC could not change the explicit promotion standards that had been adopted by the parties and approved by the Joint CLRC and that this issue could be raised only before the Joint CLRC. This disagreement was taken to the Joint Area LRC, where there was agreement that Local 10 could proceed with this issue only before the joint CLRC.

94. On July 22, 1963, the JPLRC reached agreement as to the merits of each of the grievances filed by the limited registration Class B longshoremen with respect to the notices of deregistration of June 17, 1963, and notices of these decisions were sent to the men who had filed grievances, including those who had been found to have satisfied the explicit promotion standards and those whose grievances were denied.

95. During the process the union took elaborate and detailed efforts to make certain that there would be no factual mistake that would cause the plaintiffs or the other limited registration Class B longshoremen to be denied promotion, and the union defendants became satisfied (a) that the PMA representatives and the JPLRC were similarly engaged in such efforts to be certain that there would be no factual mistake that would cause any of the plaintiffs or other limited registration Class B longshoremen to be denied promotion, and (b) that this effort was carried on jointly by the JPLRC representatives from both the union and the employer in determining the facts as to all of the limited registration Class B longshoremen who had filed grievances.

96. Throughout the proceedings in adjudication of the grievances filed by plaintiffs and other limited registration Class B longshoremen regarding the June 17 notices of deregistration, the ILWU and its Local 10 provided all of the longshoremen in its collective bargaining unit, including each of the plaintiffs, with fair representation. As they provided in their representation of the longshoremen in all matters relevant to this proceeding, the ILWU and its Local 10 provided fair representation to all of the employes in the collective bargaining unit—including each of the limited registration longshoremen and accordingly each of the plaintiffs—in negotiating the explicit promotion standards. In this representation, neither the ILWU nor its Local 10 acted on the basis of any malice, hostility, bad faith, animosity, or ill-will toward any of the persons in the collective bargaining unit, including the plaintiffs as a group and each of them, and neither of the union defendants engaged in any invidious, arbitrary, discriminatory, capricious, irrational or unfair activity in regard thereto.

The § 17.4 grievance procedure.

97. Each of the plaintiffs and the other limited registration Class B longshoremen whose deregistrations were sustained in July, 1963, was notified that he could use the § 17.4 procedure

of the PCLA by filing a discrimination grievance, which would institute a collateral attack upon the decision sustaining his deregistration, which collateral attack could be carried to the Coast Arbitrator by the individual man, who would have complete control of his own case in this procedure.

98. On July 25, 1963, Johnson Lee, one of the limited registration Class B longshoremen whose grievance against his deregistration was denied on July 22, 1963, filed a charge with the National Labor Relations Board.

99. On or about July 26, 1963, most of the plaintiffs and some other limited registration Class B longshoremen whose deregistrations had been sustained met and determined to file grievances under the § 17.4 procedure, and Stanley Weir prepared a form to state such a grievance and distributed it to the plaintiffs and other limited registration Class B longshoremen. It stated [Ex. 427]:

> "Your committee de-registered me on June 17. On July 24, I received your letter denying my hearing appeal. In so doing you consummated an action that is discriminatory. You have not judged all the men involved by the same standards.
>
> "I appeal your decision and request another hearing as stipulated, where I will prove and document this discrimination.
>
> "I have never been able to get from you an official statement specifying the alleged charges against me, nor did your committee produce documents to substantiate the charges.
>
> "Would you please correct this situation for the next hearing."

On July 27, 1963, most of the plaintiffs filed a discrimination grievance in these precise words.

100. On or about July 27, 1963, the plaintiffs considered the advisability of filing charges with the National Labor Relations Board.

101. During the period beginning July 25, 1963, the great bulk of the plaintiffs filed appeals from decisions denying them unemployment insurance benefits or had unemployment insurance benefit decisions favorable to them appealed by PMA.

102. On August 1, 1963, Stanley Weir filed his appeal against the denial of unemployment insurance benefits to him. It stated [Ex. IV]:

> "The reason for your decision is based upon information that I have not had any opportunity to confront or refute. At no time has the union or the employer presented a documentation of L.M.O. charges when both myself and anyone with power to find me guilty or innocent was present. (Local 10, I.L.W.U. is for returning even guilty LMO violators to work). (This, as of July 27, 1963).
>
> "I request my case be consolidated into the group appeal and that during the appeal and at the hearing the charges against me be complete, specific and completely documented so that I can finally have an opportunity to make my defense."

103. On or before August 3, 1963, the plaintiffs agreed not to carry their case to the National Labor Relations Board but instead to take it to the courts. They held a press conference and publicly announced this decision. This news was broadcast by radio and television and reported prominently in the San Francisco newspapers.

104. On or about August 15, 1963, the plaintiffs sent the telegram to Local 10, threatening it by stating that they would go to court if Local 10 did not get plaintiffs their "jobs back".

105. Plaintiffs knew that the announcement of their decision to go to court would cause a strong negative reaction among the members of Local 10 and officials of the ILWU.

106. On or about September 1, 1963, the plaintiffs retained Sidney Gordon as their attorney "to get their jobs back". The initial task he took on was to handle their unemployment insurance litigation.

107. Extensive litigation was instituted by Sidney Gordon before the unemployment insurance referee, the appeals board, the California Superior Court, the California District Court of Appeal, and the California Supreme Court with respect to the unemployment insurance issues raised by plaintiffs so that months of time were devoted to these proceedings. During these proceedings, oral notice was given to the plaintiffs through their then attorney, Sidney Gordon, that the JPLRC had determined that the § 17.4 grievance procedure would be carried forward as soon as the transcript of the unemployment insurance hearings was available. The taking of evidence before the referee was concluded on April 1, 1964.

108. Because of the time involved in this unemployment insurance litigation that was carried on at length in accordance with the demand of Stanley Weir and because of the desirability of not duplicating the taking of live testimony, the delay in proceeding to the actual grievance hearings was reasonable and necessary.

109. On April 15, 1964, plaintiffs filed their complaint in this matter in which they alleged that they had already exhausted the grievance-arbitration procedure in July, 1963, and prayed that the use of the grievance procedure be enjoined.

110. On May 18, 1964, notices were sent to the plaintiffs who had filed discrimination grievances, notifying them that their grievances were being sent down for a hearing under the § 17.4 procedure of the PCLA.

111. On May 22, 1964, Sidney Gordon, counsel for the plaintiffs, wrote to George R. Andersen, counsel for the defendant unions, saying [Ex. LS]:

> "Please be advised that I have instructed my clients in the above entitled matter [*Williams v. PMA*], and those persons I represent in the subject controversy, not to be present pursuant to those Notices respecting re-hearing on their de-registrations which are set to commence next week.

"Our position is that all matters of Discovery are within the exclusive jurisdiction of the Court, further, that the extra-judicial steps now attempted, and, without provision for representation by counsel of Record, subsequent to commencement of the action, and with respect to the very issues of law and fact advanced by the complaint, in particular, before a Committee, whose members are individually sued, is, clearly, a usurpation of the province of the Court."

112. On May 25, 1964, George R. Andersen responded to the foregoing communication he acknowledged receiving from Sidney Gordon, saying [Ex. LT]:

"For your general information, the grievance hearing which is scheduled is pursuant to the grievance/arbitration machinery set forth in the longshore contract, which machinery provides in effect that this procedure is the sole and exclusive remedy in the event grievances arise of the nature covered by what we believe to be the claims of your clients.

"In other words, the contract provides for arbitration; and we suggest to you that if you have a cause of action, you may be seriously jeopardizing it by refusing to follow the arbitration procedure.

"I suggest you let us know by return mail if you are refusing to arbitrate, or whether your clients will appear."

113. On May 25, 1964—the day preceding the first of these § 17.4 grievance hearings—Sidney Gordon, counsel for the plaintiffs, appeared *ex parte* in this case in this Court without notice to the defendants and obtained a temporary restraining order against the holding of the § 17.4 grievance procedure hearings on the plaintiffs' grievances. This temporary restraining order was served shortly after the proceedings began. Upon service of the temporary restraining order, the proceedings then recessed.

114. A hearing was thereafter held in this case in this Court before Judge Albert C. Wollenberg on June 2, 1964, on plaintiffs' request for a preliminary injunction to prohibit the JPLRC from carrying on the grievance procedure under § 17.4.

115. During the hearing before Judge Wollenberg, counsel for PMA and counsel for the ILWU and Local 10 confirmed, and represented to the Court and to counsel for plaintiffs, that the ILWU-PMA contract provided a grievance procedure for issues raised by the plaintiffs, that plaintiffs were entitled to participate therein using their own counsel and with full control of their cases, and that this would lead to an arbitration before Professor Kagel of Boalt Hall Law School of the University of California with respect to claims raised by the plaintiffs. When Judge Wollenberg indicated that the injunction prayed for would not issue, Sidney Gordon nevertheless declared that he would not participate and would not permit the plaintiffs to participate in these grievance procedures. Judge Wollenberg then advised Sidney Gordon of the law as to the exhaustion of the grievance-arbitration process, pointed out he would be taking a severe risk for his clients if he failed to exhaust the available grievance-arbitration procedures under the collective bargaining contract, directed defendants to communicate with Sidney Gordon at all steps of this procedure as counsel for the plaintiffs, and had Sidney Gordon give the defendants an address that could be used for such communications.

116. Thereafter, the JPLRC carried on its proceedings under § 17.4 with respect to the discrimination grievances filed by plaintiffs and reached decisions thereon. Notices of these decisions were given to Sidney Gordon and to each of the plaintiffs; each was (in the notice documents) informed of the procedure by which an appeal to the next step of the grievance procedure could be taken.

117. Thereafter, Sidney Gordon, on behalf of the plaintiffs, brought plaintiffs' grievances to the Joint CLRC.

118. On November 20, 1964, after Sidney Gordon and counsel for the PMA and counsel for the ILWU were given the opportunity to file briefs with respect to the issues, the Joint CLRC held its hearing on the appeals. Sidney Gordon did not make a personal appearance. One of the plaintiffs, Cleo Love, appeared at the hearing. He admitted that he had in fact not met the explicit promotion standards and asserted that these standards were contrary to the contract and should be rescinded.

119. The minutes of the Joint CLRC meeting on November 20, 1964, show that the following issues were considered by the committee at that time:

> The Joint CLRC held that the explicit promotion standards did not establish any new rules or penalties, that they were adopted in full satisfaction of all contract requirements, that they were applied uniformly to all applicants for promotion, that no person was promoted who failed to satisfy any of the explicit promotion standards, that each of plaintiffs did in fact fail to satisfy one or more of the explicit promotion standards, that the explicit promotion standards were material and relevant to upgrading the longshore work force, that this purpose was reasonable, rational and appropriate, that the explicit promotion standards were not in violation of any terms of the collective bargaining contract, that the explicit promotion standards were not retroactive or retrospective in effect, and, further, that neither in negotiating the explicit promotion standards nor in adjudicating grievances in regard thereto did the International ILWU or Local 10 engage in any discrimination either in favor of or against any person because of membership or nonmembership in the union, activity for or against the union or absence thereof, or race, creed, color, national origin or religious or political beliefs.

Each of the plaintiffs was entitled to take to the Coast Arbitrator his appeal from the decision of the Joint CLRC on November 20, 1964.

120. The explicit promotion standards, and the form of the letter used to notify the plaintiffs of their deregistration under date of June 17, 1963, were duly approved by the final action of the Joint CLRC on November 20, 1964, where express approval was given to the explicit promotion standards, both with respect to their substance and to the formalities of their adoption. They had previously been duly approved by the Joint CLRC by its informal action prior to June 17 (under which the July 17 notices were issued) and by the Joint CLRC's formal action of June 24, 1963, approving the explicit promotion standards and the application thereof as a general course of action in exercising its control over the registration lists for the port of San Francisco.

121. During the proceedings before Judge Wollenberg on June 2, 1964, Judge Wollenberg had advised Sidney Gordon that the case would be kept open in the files of the Court and that Sidney Gordon could have prompt access to this Court should the defendants fail to provide due, fair, reasonable and appropriate hearings in the grievance-arbitration process to the plaintiffs in accordance with the commitments that their counsel had made in this Court. Thereafter, Judge Wollenberg's directions that notice be given to plaintiffs, and their counsel, Sidney Gordon, of all subsequent steps in the grievance-arbitration process were followed. No contention was made in this case in this Court that the grievance-arbitration procedures carried on by the defendants were not in accordance with the assurances given to Sidney Gordon by Judge Wollenberg.

122. Under date of December 18, 1964, each of the plaintiffs and Sidney Gordon was given notice of the Joint CLRC decision. The notice set forth details as to the procedure to be used to take the matter to arbitration before the Coast Arbitrator and the time limits thereon.

123. Each of the plaintiffs had the right to continue to use the § 17.4 procedure with respect to his grievance by filing an appeal from this decision of the Joint CLRC to the Coast Arbitrator. In following such procedure, the individuals had full control of their respective cases in perfecting their appeals, in subpenaing witnesses and documents, in presenting their evidence, and in arguing their contentions. They were free to appear individually or as a group and to have individual or group counsel represent them.

124. In the course of the grievance procedures up through the notices issued on December 18, 1964, the ILWU and its Local 10 provided fair representation to all of the employees in the collective bargaining unit, including each of the limited registration longshoremen and accordingly each of the plaintiffs. In this representation, neither the ILWU nor its Local 10 acted on the basis of any malice, hostility, bad faith, animosity, or ill-will toward any of the persons in the collective bargaining unit, including the plaintiffs as a group and each of them, and neither of the union defendants engaged in any invidious, arbitrary, discriminatory, capricious, irrational or unfair activity in regard thereto.

125. On May 4, 1965, the trial examiner of the National Labor Relations Board issued his intermediate report in which he stated his conclusion that the explicit promotion standards were adopted through breach of the duty of fair representation, citing *Miranda Fuel Company, Inc.*, 140 NLRB 181 (1962). On May 17, 1965, the plaintiffs, on behalf of all persons similarly situated, filed a charge with the Labor Board asserting that they had been deregistered as a result of the breach of the duty of fair representation as decided by the trial examiner. They asserted they had exhausted their remedies under the grievance machinery procedure of the contract in November, 1964. General Counsel of the Labor Board, apparently on the theory that the period of limitations under the National Labor Relations Board ran from an earlier

act of the JPLRC and had expired or on the basis of his discretion not to proceed with a charge filed with the Labor Board, refused to permit these plaintiffs to join in the contentions made by Johnson Lee and the other limited registration Class B longshoremen who had filed charges in 1963.

126. The Board issued its decision in *Pacific Maritime Association (Johnson Lee)*, on November 29, 1965, which is reported at 155 NLRB 1231 (1965). Its decision was contrary to that proposed by the trial examiner. It concluded that the explicit promotion standards had been adopted to meet "the industry's increasing need for a greater number of steady, highly qualified and responsible longshoremen by affording fully registered status to the most qualified of the limited registered longshoremen and abolishing the Class B list". It sustained the use of the late payment of pro-rata as an explicit promotion standard, the decision that those who failed to meet the explicit promotion standards would be deregistered, and the existence of the Class B limited registration list of men who would be subject to stricter rules and more stringent penalties than the Class A longshoremen.

The plaintiffs' procedural complaints.

127. On or about March 28, 1963, Stanley Weir received notice that he had been deregistered because certain data in the hands of the JPLRC indicated that he had failed to meet the 70% availability test. Upon receipt of this notice, he went to the Local 10 office to get information as to what was the basis for the charge that he had failed to meet this test. He was then given assistance by officials of Local 10 to determine what was involved. Local 10 communicated on his behalf with the Pacific Maritime Association and got information as to the period of time involved. Thereupon, Stanley Weir himself went to the PMA office and talked to PMA representatives on the Class B panel of the JPLRC and got information from them as to the period of time over

which it was asserted he had failed to meet the 70% availability standard and as to the exact details of how that standard was applied. Thereupon Local 10 had discussions of his case with PMA and wrote Stanley Weir telling him that he should appear at the hearing and present the facts and indicating that, in view of the information developed, it appeared that he would be successful in getting the deregistration stricken from his record.

128. On April 24, 1963, Stanley Weir did appear before the JPLRC and did present facts as to the period of time that was under consideration by the JPLRC on the basis of data it had developed. It appeared that his actual availability had been between 69% and 70% in one thirty-day period and that his sunburned condition after his vacation made him unable to perform longshore work for some days, so that his record showed that he fell below 70% availability. Upon Stanley Weir's presentation to the JPLRC, it reversed the deregistration.

129. In May, 1963, Stanley Weir learned that the JPLRC was apparently considering whether or not he had dropped an excessive number of LMO hours and whether or not he would be promoted to the coveted seniority status of the Class A fully registered longshoreman. He thereupon started a series of written communications to the PMA, to the ILWU and to Local 10, asserting that he had not dropped an excessive number of LMO hours and protesting the procedures being used.

130. On May 14, 1963, Stanley Weir sent a telegram to William Chester at the ILWU and John Trupp at the PMA.

131. Either before or shortly after Stanley Weir's first such written communication to PMA and the ILWU on this subject, he had met with Asher Harer, who was acting as ombudsman-advocate for the limited registration Class B men who were in situations similar to that of Stanley Weir. The two reviewed in detail the issues that had been raised on this subject. Thereafter,

on May 16, 1963, Asher Harer reported to the Local 10 membership that he had studied a number of cases, including that of Stanley Weir, and that he disagreed with the conclusions of the union representatives on the B-list panel of the JPLRC that Stanley Weir had dropped an excessive number of LMO hours.

132. As a result of the questions raised by Stanley Weir directly and by Asher Harer and others, Local 10 directed that its representatives on the B-list panel of the JPLRC make a double check as to every man who appeared to have dropped an excessive number of LMO hours to make certain that no man was denied promotion because of an erroneous decision as to the facts involved. Thereafter, such double checks were made by the union representatives on the JPLRC.

133. At the same time the employer representatives on the JPLRC made independent checks with respect to every man who was initially determined to have dropped an excessive number of LMO hours. This was to avoid any factual errors. By early June these reviews had been completed and changes made in the records as to the dropping of LMO hours. Adjustments were made for errors that were found.

134. On May 14, 1963, Stanley Weir objected to the promotion of some of the limited registration Class B longshoremen prior to the JPLRC's issuing a determination in his favor with respect to his case. He said he should be promoted, that he could show that he had not dropped an excessive number of LMO hours, and that he should be promoted with the others who had been found to have met the explicit promotion standards and at the same time.

135. On May 17, 1963, the Joint CLRC set aside the action of the JPLRC that had promoted 408 limited registration Class B men to the status of a fully registered Class A longshoreman and directed that the JPLRC make initial determinations as to all of the applications and then promote, at the same time, all of the men who met the explicit promotion standards.

136. On June 10, 1963, Stanley Weir made a further written challenge to the procedure and to the JPLRC conclusions for a determination sustaining the earlier findings that he had dropped an excessive number of hours. His letter to this effect of June 10, 1963, was on or shortly after the date on which the JPLRC members informally concluded that he had dropped an excessive number of LMO hours after having concluded its double check process.

137. The JPLRC gave notice in the minutes of June 17, 1963, which were made public to the longshoremen, asking that facts be submitted to it that might indicate that any limited registration Class B longshoreman had been approved for promotion although he had failed to meet one or more of the explicit promotion standards. It stated that any such promotion would be set aside on establishing such facts.

138. After Stanley Weir received his notice of deregistration under date of June 17, 1963, he continued to send written communications to the union and to the PMA asserting that he was without knowledge as to the issues that were involved in his case and so was not able to prepare his case. This Court finds that Stanley Weir, previous to these communications, had reviewed these issues in detail with Asher Harer and that Asher Harer had prepared detailed documentary material to support Stanley Weir's contentions that he had not dropped an excessive number of LMO hours. When Stanley Weir appeared before the JPLRC at Pier 24 on July 11, 1963, he gave full explanations of why he should not be charged with dropping any LMO hours, except for 2-½ hours, and the report of Asher Harer with respect to his case was read to the JPLRC. Stanley Weir's oral presentation and the Asher Harer report were substantially the same.

139. The evidence in this record fails to show that Stanley Weir was in any way prejudiced in the preparation and presentation of his evidence and his argument in support of his grievances.

He, like all the other plaintiffs, had full opportunity to learn of the factual issues that led to the notice of June 17, 1963, that he had been deregistered, to gather his evidence, to marshall his facts, to present his argument, and he had the benefit of the extraordinary assistance of Asher Harer in preparing his case for the grievance-arbitration process. There is no showing of any merit in the technical claims of insufficiences in the procedures used under the ILWU-PMA contract. Stanley Weir had a due, fair, appropriate and reasonable hearing.

140. Evidence was offered that there was rumor or gossip on the San Francisco waterfront that Stanley Weir had been selected for deregistration by the ILWU and the PMA because he was a thorn in the side of Harry Bridges, then president of the ILWU, and Paul St. Sure, then president of the PMA. Evidence was offered through deposition testimony from the president of Local 13 of the ILWU in Los Angeles, Curt Johnston, that this rumor had been told to him by a PMA employe in Los Angeles, Robert Hall. However, Robert Hall testified in the Court and denied that he had ever made such a statement to Curt Johnston. The Court credits the testimony of Robert Hall and finds that he did not relate this rumor or gossip to Curt Johnston. The Court notes that Stanley Weir testified that this rumor stated a hypothesis that he felt could be drawn from the evidence, but he testified further that this was not his conclusion from the evidence. From all of the evidence in the record not subject to legal objection, the Court finds (a) that there is not proof in this record that Stanley Weir was considered to be a thorn in the side of Harry Bridges by Harry Bridges or Paul St. Sure or by any agent of the ILWU, Local 10 or the PMA, or that Stanley Weir was considered to be a thorn in the side of Paul St. Sure by Paul St. Sure or Harry Bridges or by any representative of the ILWU, Local 10 or the PMA, and (b) that it has not been established that any invidious or arbitrary or discriminatory considerations or any hostility, ani-

mosity, malice, ill-will, invidiousness, bad faith, or "frame-up" contributed in any way to the decision that Stanley Weir stand deregistered or to the decision that any of the other plaintiffs or the plaintiffs as a group or the limited registration longshoremen who were deregistered as a group, were deregistered for such reasons. It finds to the contrary, that Stanley Weir and each of the other plaintiffs was deregistered for good and sufficient cause.

141. In their Fourth Amendment Complaint, plaintiffs alleged that they had exhaused all appeals and had "been totally deregistered by a final decision made by the Joint Coast Labor Relations Committee on November 20, 1964". The Court finds that the ILWU-PMA contract gave Stanley Weir and each of the plaintiffs or any group of two or more or all of the plaintiffs a remedy before the Coast Arbitrator by appeal with respect to all of the issues decided by the Joint Coast Labor Relations Committee on November 20, 1964, and that they and each of them refused to use this remedy.

Except as found hereinabove, this Court specifically finds on all the evidence not subject to legal objection that plaintiffs have failed to establish each and every of their allegations in their Fourth Amended Complaint.

From the foregoing Findings of Fact the Court draws the following

CONCLUSIONS OF LAW

1. This Court has jurisdiction of the parties and the subject matter of this action under § 301(a) of the Labor-Management Relations Act, 29 U.S.C. § 185, and 28 U.S.C. § 1337.

2. Defendant Pacific Maritime Association is an employer within the meaning of § 2(2) of the National Labor Relations Act, 29 U.S.C. § 152(2). Defendant International Longshoreman's and Warehousemen's Union is the certified collective bargaining representative for all longshoremen employed by PMA

and is recognized as such under § 2(5) of the Act, 29 U.S.C. § 152(5). Defendant International Longshoremen's and Warehousemen's Union Local No. 10 is the chartered local affiliate of the International in the Port of San Francisco.

3. Plaintiffs have standing to bring this action.

4. At all times relevant to this case, the ILWU and the PMA were parties to the ILWU-PMA collective bargaining contract.

5. As the certified collective bargaining representative, defendant International Longshoremen's and Warehousemen's Union owed to all persons in the bargaining unit—and to the plaintiffs at all time material to their claims—a statutory duty of fair representation to represent all members of the bargaining unit fairly and to refrain from arbitrary, discriminatory or bad faith conduct.

6. The exclusive representative for collective bargaining purposes of employes in a collective bargaining unit has no duty to try to assist an individual employe in covering up the true facts with respect to an issue involving him that is being considered in the grievance-arbitration process.

7. The explicit promotion standards were authorized by, and adopted in accordance with, § 17.851 of the Pacific Coast Longshore Agreement, a basic contract document of the ILWU-PMA collective bargaining contract, were duly and properly adopted by the parties to the ILWU-PMA collective bargaining contract, and became part of that contract as an explication of the terms of the 1958 Memorandum as to Registration and Deregistration, another part of that contract.

8. The ILWU and its Local 10 provided fair representation to the members of the bargaining unit in the negotiation of the explicit promotion standards. These negotiations were carried on without breach of the duty of fair representation and without malice or hostility or animosity, ill-will or bad faith and without any arbitrary, unreasonable, invidious, discriminatory or bad faith conduct.

9. The provisions of the explicit promotion standards were fair, reasonable, rational and relevant terms dealing with misconduct that was known to be misconduct for which deregistration might be the penalty at the time that the individual limited registration longshoreman engaged in misconduct. The terms of the explicit promotion standards are fair and not capricious or arbitrary.

10. The true purpose or real motivation of the parties to the ILWU-PMA contract in formalizing the explicit promotion standards and in implementing them was to meet the industry's increasing need for a greater number of steady, highly qualified, and responsible longshoremen. To that end, the defendants jointly promulgated appropriate, fair and reasonable guides for the selection of the best-qualified employes.

11. The ILWU and its Local 10 provided fair representation to the members of the bargaining unit in the implementation of the explicit promotion standards. The implementation of these standards was carried on without breach of the duty of fair representation and without malice or hostility or animosity or ill-will or bad faith and without any arbitrary, unreasonable, invidious, discriminatory or bad faith conduct.

12. The employer owes no duty of fair representation to the employes working for it or in the collective bargaining unit of which its employes are members or any of them. The employer is not liable to its employes for the consequences of its engaging in hard bargaining with the union in an effort to get a bargaining contract that is for the employer's best interests or in implementing that contract.

13. The procedures for handling the grievances of the plaintiffs were fair, due, appropriate and reasonable for the disposition the issues in the grievance-arbitration process with respect to the deregistration notices sent to the plaintiffs.

14. The ILWU and its Local 10 provided fair representation to the members of the bargaining unit in the adjudication of the grievances of the plaintiffs with respect to the explicit promotion standards and their implementation. These grievances were adjudicated without breach of the duty of fair representation and without malice or hostility or animosity or ill-will or bad faith and without any arbitrary, unreasonable, invidious, discriminatory or bad faith conduct.

15. The plaintiffs are not entitled to relief in this Court with respect to their deregistrations because they failed and refused to exhaust the grievance-arbitration procedure of the ILWU-PMA contract, which they could have exhausted by taking their grievances to the Coast Arbitrator after receiving the notices of the decision of the Coast Labor Relations Committee on November 20, 1964, which were dated December 18, 1964.

16. The grievances of the plaintiffs claiming that they did in fact satisfy the explicit promotion standards were not meritorious grievances.

17. The ILWU and the PMA are authorized under the law, and under the ILWU-PMA collective bargaining contract, to maintain the distinctions existing between limited registration Class B longshoremen having junior seniority and fully registered Class A longshoremen with a superior seniority status.

18. Neither the ILWU nor its Local 10 was in breach of the duty of fair representation in failing to obtain agreement by the PMA to strike out of the ILWU-PMA contract any of the provisions for registration status that had been in effect since 1934, or that were adopted prior to December 31, 1964.

19. The dissatisfaction of the plaintiffs with the explicit promotion standards did not establish that there was a breach of the duty of fair representation.

20. Judgment is to be entered in favor of defendants and against plaintiffs, with costs to the defendants.

Dated: Aug 27 1976

GEORGE B. HARRIS
United States District Judge

EXCERPTS FROM THE EXHIBITS IN EVIDENCE

EXHIBIT I

PACIFIC COAST LONGSHORE AGREEMENT

THIS AGREEMENT, dated June 16, 1961 and amended June 22, 1962, is by and between Pacific Maritime Association (hereinafter called "the Association"), on behalf of its members (hereinafter designated as "the Employers" or the "individual employer"), and the International Longshoremen's and Warehousemen's Union (hereinafter designated as "the Union"), on behalf of itself and each and all of its longshore locals in California, Oregon and Washington (hereinafter designated as "longshore locals") and all employees performing work under the scope, terms and conditions of this Agreement.

The parties hereto are the International of the International Longshoremen's and Warehousemen's Union and the coastwide Pacific Maritime Association. All property rights in and to the Pacific Coast Longshore Agreement are entirely and exclusively vested in the Pacific Maritime Association and the International Longshoremen's and Warehousemen's Union respectively, and their respective members. In the case of the International Longshoremen's and Warehousemen's Union, a majority of the members of both the individual and combined locals covered by this Agreement shall be necessary to designate any successor organization holding property rights and all benefits of this Agreement, and if an election is necessary to determine a majority of both individual and combined locals in order to establish the possessors of all rights and benefits under this Agreement, such election shall be conducted under the auspices and the supervision of the Coast Arbitrator provided for in Section 17, provided that such designation or election is not in conflict with any paramount authority or lawful or statutory requirements.

SECTION 1

SCOPE OF THIS AGREEMENT AND ASSIGNMENT OF WORK TO LONGSHOREMEN

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SECTION 2

STRAIGHT AND OVERTIME HOURS

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SECTION 3

GUARANTEES

* * *

SECTION 4

SCHEDULED DAY OFF

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SECTION 5

HOLIDAYS

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SECTION 6

WAGES

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SECTION 7

VACATIONS

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SECTION 8

HIRING, DISPATCHING, REGISTRATION AND PREFERENCE

8.1 Dispatching halls.

8.11 The hiring and dispatching of all longshoremen shall be through halls maintained and operated jointly by the International Longshoremen's and Warehousemen's Union and the

Pacific Maritime Association in accordance with the provisions of Section 17. There shall be one central dispatching hall in each of the ports with such branch halls as shall be mutually agreed upon. All expense of the dispatching halls shall be borne one-half by the local union and one-half by the Employers.

8.12 Any longshoreman who is not a member of the Union shall be permitted to use the dispatching hall only if he pays his pro rata share of the expenses related to the dispatching hall, the Labor Relations Committee, etc. The amount of these payments and the manner of paying them shall be fixed by the Joint Port Labor Relations Committees.

8.13 Any non-Association employer shall be permitted to use the dispatching hall only if he pays to the Association for the support of the hall the equivalent of the dues and assessments paid by the Association's members. Such nonmember employers shall have no preference in the allocation of men, and shall be allocated men on the same basis as Association members.

8.14 Longshoremen not on the registered list shall not be dispatched from the dispatching hall or employed by any employer while there is any man on the registered list qualified, ready and willing to do the work.

8.2 Dispatching hall personnel.

8.21 The personnel for each dispatching hall, with the exception of Dispatchers, shall be determined and appointed by the Joint Labor Relations Committee of the port. Dispatchers shall be selected by the Union through elections in which all candidates shall qualify according to standards prescribed and measured by the Joint Labor Relations Committee of the port. If it fails to agree on the appropriate standards or on whether a candidate is qualified under the standards, the dispute shall be decided in accord with provisions of Section 17.

8.22 The term of office of any Dispatcher shall be at least one year.

8.23 All personnel of the dispatching hall, including Dispatchers, shall be governed by rules and regulations of the Joint

Port Labor Relations Committee, and shall be removable for cause by the Joint Port Labor Relations Committee.

8.24 The Association shall be permitted to maintain a representative in the dispatching hall. The Joint Port Labor Relations Committee shall permit any authorized representative of the Association or the Union to inspect dispatching hall records.

8.3 Registration.

8.31 The Joint Port Labor Relations Committee in any port, subject to the ultimate control of the Joint Coast Labor Relations Committee, shall exercise control over registered lists in that port, including the power to make additions to or subtractions from the registered lists as may be necessary. In each port there shall be maintained a list of longshoremen showing their registration status under this Agreement. When objecting to the registration of any man, members of the Joint Port Labor Relations Committee shall be required to give reason therefor.

8.32 Any longshoreman registered by a Joint Port Labor Relations Committee in accordance with this Agreement shall thereby acquire joint coastwide registration under the Pacific Coast Longshore Agreement and the Master Agreement for Clerks, Checkers, and Related Classifications. The rights and obligations of coastwide registration in regard to transfers between ports, visiting, and leaves of absence are set forth in Supplement I to this Agreement. The rights and obligations of coastwide registration in regard to transfer of registered longshoremen to registered clerk status and vice versa are set forth in Supplement II to this Agreement.

8.33 Either party may demand additions to or subtractions from the registered lists as may be necessary to meet the needs of the industry.

8.34 Each registered longshoreman has the obligation to request a leave of absence if he intends to absent himself from work for a period of thirty (30) days or longer and in other circumstances as may be covered by port rules under Supplement

I. A registered longshoreman who fails to work for thirty (30) days, except when on approved leave, and whose facts and reasons for such absence are not acceptable to the Joint Port Labor Relations Committee, may be de-registered.

8.4 Preference of employment.

8.41 First preference of employment and dispatch shall be given to fully registered longshoremen who are available for employment covered by Section 1 of this Agreement in accordance with the rules and regulations adopted by the Joint Port Labor Relations Committee. A similar second preference shall be so given to limited registered men. The Joint Coast Labor Relations Committee shall be authorized to effectuate such perferences in such manner and for such times and places as it determines in its discretion.

8.42 Dispatching of men and gangs shall be under the principle of low-man, low-gang, first-to-be-dispatched, except where local dispatching rules provide otherwise for dispatching of special skilled men and gangs.

8.43 There shall be no favoritism or discrimination in the hiring or dispatching or employment of any longshoreman qualified and eligible under the Agreement.

8.44 Any longshoreman or dispatching hall employee found guilty by the Joint Port Labor Relations Committee of favoritism or discrimination or bribery shall immediately be discharged and dropped from the registered list.

SECTION 9

PROMOTIONS

* * *

SECTION 10

ORGANIZATION OF GANGS, GANG SIZES AND MANNING, AND METHODS OF DISPATCHING

10.1 The Joint Port Labor Relations Committee shall determine the methods of dispatching for the port. Gangs and men

shall be dispatched only as ordered by the employer. The Employers shall have the right to have dispatched to them, when available, the gangs in their opinion best qualified to do their work. Subject to the provisions of this Agreement, gangs and men not assigned to gangs shall be so dispatched as to equalize their work opportunities as nearly as practicable, having regard to their qualifications for the work they are required to do. The Employers shall be free to select their men within those eligible under the policies jointly determined and the men likewise shall be free to select their jobs.

* * *

10.4 When new methods of operation are introduced, the Employers shall discuss the proposed manning with the Union. If agreement cannot be reached at the coast level, the Employers shall have the right to put their manning in effect, subject to final resolution through the Agreement grievance machinery.

* * *

SECTION 11

NO STRIKES, LOCKOUTS AND WORK STOPPAGES

11.1 There shall be no strike, lockout or work stoppage for the life of this Agreement.

11.2 The Union or the Employer, as the case may be, shall be required to secure observance of this Agreement.

11.3 How work shall be carried on.

11.31 In the event grievances or disputes arise on the job, all men and gangs shall continue to work as directed by the employer in accordance with the specific provisions of the Agreement or if the matter is not covered by the Agreement, work shall be continued as directed by the employer.

11.32 There will be no unilateral "hip pocket" working or dispatching rules.

11.4 Exceptions for health and safety.

11.41 Longshoremen shall not be required to work when in good faith they believe that to do so is to immediately endanger health and safety. Only in cases of bona fide health and safety issues may a standby be justified. The Union pledges in good faith that health and safety will not be used as a gimmick. Supplement III sets forth the agreed procedure with respect to disputes on health and safety.

11.5 Picket lines.

11.51 Refusal to cross a legitimate and bona fide picket line, as defined in this paragraph, shall not be deemed a violation of this Agreement. Such a picket line is one established and maintained by a union, acting independently of the ILWU longshore locals, about the premises of an employer with whom it is engaged in a bona fide dispute over wages, hours or working conditions of employees, a majority of whom it represents as the collective bargaining agency. Collusive picket lines, jurisdictional picket lines, hot cargo picket lines, secondary boycott picket lines, and demonstration picket lines are not legitimate and bona fide picket lines within the meaning of this Agreement.

11.52 If an ILWU longshore local located within the confines of the United States whose members are not covered by this Agreement is engaged in a legitimate, bona fide, nonjurisdictional and noncollusive strike concerning wages, hours or working conditions of its members, no longshoreman under this Agreement shall be required to perform work hereunder respecting cargo that normally, without such strike, would be handled by members of such ILWU longshore local but which has been handled or is destined to be handled by other workers engaged in strike-breaking activities under established and legitimate trade union principles.

SECTION 13
NO DISCRIMINATION

13.1 There shall be no discrimination in connection with any action subject to the terms of this Agreement either in favor of or against any person because of membership or nonmembership in the Union, activity for or against the Union or absence thereof, or race, creed, color, national origin or religious or political beliefs.

SECTION 14
SLING LOAD LIMITS

* * *

14.2 In the case of all commodities other than those listed in 14.1 or on operations not subject to the limitations of 14.1, where operations have changed or where new commodities or operations have developed, loads shall be built and handled as directed by the employer, within safe and practical limits and without speed up of the individual. Any dispute arising with regard to such an operation shall be settled through the grievance machinery with work continuing as ordered by the employer.

14.21 An increase in the number of longshoremen manhandling cargo or the use of machinery to move or stow cargo on the dock or on the ship shall be considered a change in operations that permits the handling of loads larger than those specified in 14.1.

14.3 Loads shall be skimmed only as necessary to an operation and as ordered by the employer.

14.4 The Union shall have the right, without limitation, to raise a claim that an operation imposes an onerous workload on the individual worker and to carry such an issue through the grievance machinery as provided in accordance with Sections 11 and 17 of this Agreement.

SECTION 15
EFFICIENT OPERATIONS

15.1 There shall be no interference by the Union with the Employers' right to operate efficiently and to change methods of work and to utilize laborsaving devices and to direct the work through employer representatives while explicitly observing the provisions and conditions of the Agreement protecting the safety and welfare of the employees. "Speed-up" refers to an onerous workload on the individual worker; it shall not be construed to refer to increased production resulting from more efficient utilization and organization of the workforce, introduction of laborsaving devices, or removal of work restrictions.

15.11 In order to avoid disputes, the employer shall make every effort to discuss with the Union in advance the introduction of any major change in operations.

15.2 The employer shall not be required to hire unnecessary men. The number of men necessary shall be the number required to perform an operation in accordance with the provisions of 15.1, giving account to the contractual provisions for relief and the fact that during many operations all men will not be working at all times due to the cycle of the operation.

15.3 The Employers shall have the right to propose changes in working and dispatching rules that they claim are in conflict with the intent of provisions incorporated in this Agreement. The Joint Coast Labor Relations Committee may refer proposed changes that are of only local significance to the local level for negotiation. Any such change agreed to at the local level must be approved at the coast level before being put into operation. Any proposal referred to the local level and not resolved within thirty (30) days thereafter shall automatically return to the Joint Coast Labor Relations Committee.

15.4 Any disputes concerning the interpretation or application of provisions of this Agreement relating to the subject matter of this Section 15 may be submitted directly to the Joint Coast Labor Relations Committee.

SECTION 16
SAFETY

* * *

SECTION 17
JOINT LABOR RELATIONS COMMITTEES, ADMINISTRATION OF AGREEMENT AND GRIEVANCE PROCEDURES

17.1 Joint Labor Relations Committees.

17.11 The parties shall establish and maintain, during the life of this Agreement, a Joint Port Labor Relations Committee for each port affected by this Agreement, four Joint Area Labor Relations Committees, and a Joint Coast Labor Relations Committee. Each of said labor relations committees shall be comprised of three or more representatives designated by the Union and three or more representatives designated by the Employers. Each side of the committee shall have equal vote.

17.12 The duties of the Joint Port Labor Relations Committee shall be:

17.121 To maintain and operate the dispatching hall.

17.122 To exercise control of the registered lists of the port, as specified in 8.3.

17.123 To decide questions regarding rotation of gangs and extra men.

17.124 To investigate and adjudicate all grievances and disputes according to the procedure outlined in this Section 17.

17.125 To investigate and adjudicate any complaint against any longshoreman whose conduct on the job, or in the dispatching hall, causes disruption of normal harmony in the relationship

of the parties hereto or the frustration and/or violation of the provisions of the working or dispatching rules or of this Agreement. The application of this 17.125 shall not negate procedure for penalties as provided for in 17.7.

17.126 To carry out such other functions as are assigned to it herein or by the parties, directly or through the Joint Coast Labor Relations Committee.

17.13 There shall be a Joint Area Labor Relations Committee for each of the four port areas (Southern California, Northern California, Columbia River and Oregon Coast Ports, and Washington). Such Committee shall investigate and adjudicate grievances not settled at the local level. The Area Joint Labor Relations Committee step may be eliminated by agreement at the area level or may be bypassed by agreement at the port level.

17.14 The Joint Coast Labor Relations Committee shall function in the administration of this Agreement as provided herein and shall investigate and adjudicate grievances as provided herein.

17.141 All meetings of the Joint Coast Labor Relations Committee and all arbitration proceedings before the Coast Arbitrator shall be held in the City and County of San Francisco, State of California, unless the parties shall otherwise stipulate in writing.

17.15 The grievance procedure of this Agreement shall be the exclusive remedy with respect to any disputes arising between the Union or any person working under this Agreement or both, on the one hand, and the Association or any employer acting under this Agreement or both, on the other hand, and no other remedies shall be utilized by any person with respect to any dispute involving this Agreement until the grievance procedure has been exhausted.

17.16 Pending investigation and adjudication of such disputes work shall continue and be performed as provided in Section 11.

17.2 Grievances arising on the job shall be processed in accordance with the procedure hereof beginning with 17.21. Other grievances as to which there are no specific provisions herein shall be processed in accordance with the provisions hereof beginning with 17.23.

17.21 The gang steward and his immediate supervisor, where the grievance is confined to one gang, or any one steward who is a working member of an affected gang where the grievance involves more than one gang or a dock operation, shall take the grievance to the walking boss, or ship or dock foreman in immediate charge of the operation.

17.22 If the grievance is not settled as provided in 17.21, it shall be referred for determination to an official designated by the Union and to a representative designated by the Employer.

17.23 If the grievance is not settled in 17.21 and 17.22 or does not arise on the job, it shall be referred to the Joint Port Labor Relations Committee which shall have the power and duty to investigate and adjudicate it.

17.24 In the event that the Employer and Union members of any Joint Port Labor Relations Committee shall fail to agree upon any question before it, such question shall be immediately referred at the request of either party to the appropriate Joint Area Labor Relations Committee for decision.

17.25 In the event that the Employer and Union members of any Joint Area Labor Relations Committee fail to agree on any question before it, such question shall be immediately referred at the request of either party to the Area Arbitrator for hearing and decision, and the decision of the Area Arbitrator shall be final and conclusive except as otherwise provided in 17.26.

17.26 The Joint Coast Labor Relations Committee has jurisdiction to consider issues that are presented to it in accordance with this Agreement and shall exercise such jurisdiction where it is mandatory and may exercise it where such jurisdiction is dis-

cretionary as provided in 17.261, 17.262 and other provisions of this Agreement.

17.261 Any decision of a Joint Port or Joint Area Labor Relations Committee or of an Area Arbitrator claimed by either party to conflict with this Agreement shall immediately be referred at the request of such party to the Joint Coast Labor Relations Committee (and, if the Joint Coast Labor Relations Committee cannot agree, to the Coast Arbitrator, for review). The Joint Coast Labor Relations Committee, and if it cannot agree, the Coast Arbitrator, shall have the power and duty to set aside any such decision found to conflict with this Agreement and to finally and conclusively determine the dispute. It shall be the duty of the moving party in any case brought before the Coast Arbitrator under the provisions of this 17.261 to make a prima facie showing that the decision in question conflicts with this Agreement, and the Coast Arbitrator shall pass upon any objection to the sufficiency of such showing before ruling on the merits.

17.262 The Joint Coast Labor Relations Committee and the Coast Arbitrator shall have power to review decisions relative to the operation of dispatching halls, or the interpretation of port working and dispatching rules, or discharges, or pay (including travel pay and penalty rates), but shall exercise it in any case only if the Committee decides to review the specific case.

17.27 In the event that the Employer and Union members of the Joint Coast Labor Relations Committee fail to agree on any question before it, including a question as to whether the issue was properly before the Coast Labor Relations Committee, such question shall be immediately referred at the request of either party to the Coast Arbitrator for hearing and decision, and the decision of the Coast Arbitrator shall be final and conclusive.

17.28 Miscellaneous provisions.

17.281 Should either party fail to participate in any of the steps of the grievance machinery, the matter shall automatically move to the next higher level.

17.282 If the local grievance machinery becomes stalled or fails to work, the matter in dispute can be referred at once by either the Union or the Association to the Joint Coast Labor Relations Committee for disposition.

17.283 The hearing and investigation of grievances relating to discipline by return to the dispatching hall (17.7), penalties (17.8) and dispatching hall personnel (8.23) shall be given precedence over all other business before the Joint Port and Joint Area Labor Relations Committees and before the Area Arbitrator.

17.284 Nothing in this Section 17 shall prevent the parties from mutually agreeing upon other means of deciding matters upon which there has been disagreement.

17.3 Business Agents.

17.31 To aid in prompt settlement of grievances and to observe Agreement performance, it is agreed that Business Agents as Union representatives shall have access to ships and wharves of the employer to facilitate the work of the Business Agent, and in order that the employer may cooperate with the Business Agent in the settlement of disputes the Business Agent shall notify the representative designated by the employer before going on the job.

17.4 When any longshoreman (whether a registered longshoreman or an applicant for registration or a casual longshoreman) claims that he has been discriminated against in violation of Section 13 of this Agreement. he may at his option and expense, or either the Union or the Association may at its option and at their joint expense. have such complaint adjudicated hereunder, which procedure shall be the exclusive remedy for any such discrimination.

17.41 Such remedy shall be begun by the filing of a grievance with the Joint Port Labor Relations Committee setting forth the grievance and the facts as to the alleged discrimination. Such a grievance shall be timely if presented within ten (10) days of

the occurrence of the alleged discrimination. Such grievance shall be investigated by the Joint Port Labor Relations Committee at a regular or special meeting of the Committee at which the individual involved shall be permitted to appear to state his case, at which time he may present oral and written evidence and argument.

17.42 Either the Employers, the Union or the man involved may take an appeal from the decision of the Joint Port Labor Relations Committee. Such appeal shall be to the Joint Coast Labor Relations Committee by letter addressed to the Joint Coast Labor Relations Committee. To be timely, such appeal must be delivered or mailed within seven (7) days of the decision of the Joint Port Labor Relations Committee.

17.421 If such an appeal is taken within the time limits allowed, the Joint Coast Labor Relations Committee shall either confirm or reverse or modify the decision of the Joint Port Labor Relations Committee without any further hearing, or order a further hearing and thereupon issue its decision on the basis of the entire record including that at both hearings.

17.43 An appeal from the decision of the Joint Coast Labor Relations Committee can be presented to the Coast Arbitrator (or by agreement of the Joint Coast Labor Relations Committee to an Area Arbitrator) by the individual involved, the Employers, or the Union. Appeal shall be by a written request for an arbitrator's hearing mailed or delivered to the Union and the Employer representatives of the Joint Coast Labor Relations Committee if by an individual, or to the individual and the other party's representative on the Joint Coast Labor Relations Committe if by either the Union or the Employer. Such an appeal shall be timely only if such request for an arbitrator's hearing is so filed in writing with the Joint Coast Labor Relations Committee no later than seven (7) days after issuance of the decision of the Joint Coast Labor Relations Committee from which an appeal to an arbitrator is taken.

17.431 The arbitration procedure shall be carried on in accordance with the procedures generally applicable under this Agreement for arbitration before the Coast Arbitrator.

17.5 Arbitrators and awards.

17.51 The parties have an arbitrator for each of the said four port areas and a Coast Arbitrator. If any arbitrator shall at any time be unable or refuse or fail to act, the parties shall select his successor or substitute. If a vacancy occurs and the parties fail to agree on the successor or substitute, he shall be appointed at the request of either party by Mr. E. D. Conklin.

17.52 Powers of arbitrators shall be limited strictly to the application and interpretation of the Agreement as written. The arbitrators shall have jurisdiction to decide any and all disputes arising under the Agreement including cases dealing with the resumption or continuation of work.

17.53 Arbitrators' decisions must be based upon the showing of facts and their application under the specific provisions of the written Agreement and be expressly confined to, and extend only to, the particular issue in dispute. The arbitrators shall have power to pass upon any and all objections to their jurisdiction. If an arbitrator holds that a particular dispute does not arise under the Agreement, then such dispute shall be subject to arbitration only by mutual consent.

17.54 In the event the parties agree that an arbitrator has exceeded his authority and jurisdiction, he shall be disqualified for any further service.

17.55 All decisions of the arbitrators, except as provided in 17.261 and 17.6, shall be final and binding upon all parties. Decisions shall be in writing signed by the arbitrator and delivered to the respective parties.

17.56 All expense and salaries of the arbitrators shall be borne equally by the parties, except where specifically provided herein to the contrary.

17.6 Informal hearings and interim rulings.

17.61 When a grievance or dispute arises on the job and is not resolved through the steps of 17.21 and 17.22, and it is claimed that work is not being continued as required by Section 11, a request by either party shall refer the matter to the Area Arbitrator (or by agreement of the Joint Coast Labor Relations Committee to the Coast Arbitrator) for his consideration in an informal hearing; such referral may be prior to formal disagreement in any Joint Labor Relations Committee or upon failure to agree on the question in the Joint Area Labor Relations Committee. Such hearing may be ex parte if either party fails or refuses to participate, provided that the arbitrator may temporarily delay an ex parte hearing to permit immediate bona fide efforts to settle an issue without a hearing.

17.62 The arbitrator shall act with his powers limited strictly to the application and interpretation of the Agreement as written. The parties shall have the right to present such views as they wish to the arbitrator, but it shall not be necessary to have a shorthand or stenotype reporter present to report the proceedings nor shall employment of counsel be necessary. The arbitrator, on this basis, shall promptly issue an oral interim ruling with respect to the grievance or dispute and thereafter confirm it in writing. An interim ruling shall be binding on the parties regarding the particular issue on the particular ship on the particular occasion but shall not be a precedent for other cases. Any interim ruling shall be binding unless reversed by a contrary decision after a formal hearing.

17.63 If either party is dissatisfied with the interim ruling, the question shall be immediately referred at the request of such party to the arbitrator for hearing and decision in accordance with the normal procedure under 17.5 of this Agreement; the arbitrator shall then proceed as if there had been a failure to agree on the question by the Joint Area Labor Relations Committee, provided that the arbitrator may temporarily delay a hearing

to permit prompt bona fide efforts to settle the question in the Port or Area Joint Labor Relations Committee.

17.64 The use of the informal procedure leading to an interim ruling can be waived by consent of both parties with respect to any particular dispute or grievance. If at the beginning of the informal procedure either party establishes a good faith claim that an issue, other than a dispute with respect to Section 11, is of general significance or that the formal procedure will be necessary to settle such issue, the arbitrator shall rule that the informal procedure be bypassed regarding such issue. In the absence of such waiver or decision to bypass, the arbitrator shall hold an informal hearing and issue an interim ruling regarding the dispute in accordance with the procedure set forth above.

17.7 Discipline by return to the dispatching hall.

17.71 The employer shall have the right to return to the dispatching hall any man (or to send home any non-registered man) for incompetence, insubordination or failure to perform the work as required in conformance with the provisions of this Agreement.

17.72 Such longshoreman shall not be dispatched to such employer until his case shall have been heard and disposed of before the Joint Port Labor Relations Committee, and no other employer shall refuse employment to such longshoreman on the basis of such return to the dispatching hall.

17.73 If any man feels that he has been unjustly returned to the dispatching hall or dealt with, his grievance shall be taken up as provided in 17.2 beginning with 17.23.

17.74 In case of return to the dispatching hall without sufficient cause, the Joint Port Labor Relations Committee may order payment for lost time or reinstatement with or without payment for lost time.

17.75 When an employer returns a gang to the dispatching hall for cause, its gear priority terminates and such employer may carry on work at the hatch or gear involved without delay. The hatch or gear involved shall not stand idle because of any action

or nonaction of the Union or longshoremen or the dispatching hall. A replacement gang shall be dispatched promptly upon order of the employer. Until the replacement gang turns to or if one is not ordered or cannot be dispatched, any other gang employed by the employer shall shift to the hatch or gear involved as directed by the employer. The returned gang shall not be redispatched to the job involved unless it is the only available gang and the Association requests that it be dispatched. The provisions of 17.73 and 17.74 shall apply with respect to any gang returned to the dispatching hall for cause.

17.8 Penalties for work stoppages, assault, pilferage, drunkenness and other offenses.

17.81 All longshoremen shall perform their work conscientiously and with sobriety and with due regard to their own interests shall not disregard the interests of the employer. Any employee who is guilty of deliberate bad conduct in connection with his work as a longshoreman or through illegal stoppage of work shall cause the delay of any vessel shall be fined, suspended, or for deliberate repeated offense, cancelled from registration. Any employer may file with the Union a complaint against any member of the Union and the Union shall act thereon and notify the Joint Port Labor Relations Committee of its decision within fifteen (15) days from the date of receipt of the complaint. An employer shall not be required to appear nor need he participate in discipline by the Union of its members beyond the filing of complaints.

17.811 If within thirty (30) days thereafter the Employers are dissatisfied with the disciplinary action taken under 17.81, then the following independent procedure of 17.82 may be followed, which procedure shall also be applicable in the case of longshoremen not members of the Union.

17.82 The Joint Port Labor Relations Committee has the power and duty to impose penalties on longshoremen who are found guilty of stoppages of work, assault, refusal to work

cargo in accordance with the provisions of this Agreement, or who leave the job before relief is provided, or who are found guilty of pilfering or broaching cargo or of drunkenness or who in any other manner violate the provisions of this Agreement or any award or decision of an arbitrator.

17.821 Assault.

17.8211 For first offense assault: Minimum penalty, one year's suspension from work. Maximum penalty, discretionary.

17.8212 For second offense assault: Mandatory cancellation from registered list upon request of either party.

17.8213 In either case such conviction shall not be dependent upon the existence of a prior court decision, nor shall the determination of guilt await a court decision.

17.822 Pilferage.

17.8221 For first offense pilferage: Minimum penalty, 60 days' suspension from work. Maximum penalty, discretionary.

17.8222 For second offense pilferage: Mandatory cancellation from registered list upon request of the employer.

17.8223 Pilferage offenses committed prior to July 1, 1956 shall not be considered herein. The Joint Coast Labor Relations Committee shall review this date and is empowered to move it forward periodically.

17.823 Drunkenness or smoking in prohibited areas.

17.8231 First offense: suspension for 15 days.

17.8232 Second offense: suspension for 30 days.

17.8233 Succeeding offenses: Minimum penalty, 60 days' suspension; maximum penalty, discretionary.

17.824 Suspensions under the foregoing provisions shall follow convictions by either the Union grievance machinery or by the Joint Port Labor Relations Committee, either of whom shall accept a prior court decision. The court decision will be considered by the parties and they shall discount the penalties set forth above accordingly. Where a fine has been assessed then the days off on suspension shall be discounted at the rate of five dollars

($5.00) per day. Any man suspended under these provisions shall not be dispatched for work in any port covered by this Agreement until the suspension penalty has been served.

17.83 Any longshoremen having records of habitual drunkenness or whose conduct on the job or in the dispatching hall causes disruption of normal harmony in the relationship of the parties hereto, or who physically assault anyone in the dispatching hall or on the job, or who have records of working in a manner that endangers other workers shall not be dispatched to operate or used to operate any hoisting or mechanical equipment or devices or to supervise the operation of such equipment.

17.84 In the event of disagreement at the Joint Port Labor Relations Committee level as to the imposition of penalties under this 17.8, the issue shall be processed immediately through the grievance procedure, and to the Area Arbitrator, if necessary.

17.85 The rules and penalties provided hereinabove shall be applicable to fully registered longshoremen and, except where a more stringent rule or penalty is applicable pursuant to 17.851, to limited registered longshoremen and to nonregistered longshoremen.

17.851 More stringent rules and penalties than those provided hereinabove that are applicable to limited registered longshoremen or to nonregistered longshoremen or to both such groups may be adopted or modified by unanimous action of the Joint Coast Labor Relations Committee and, subject to the control of such Committee so exercised, more stringent rules and penalties applicable to limited registered men or nonregistered men or to both groups that are provided in existing and future local joint working, dispatching, and registration rules and procedures or by mutually agreed practices shall be applicable.

SECTION 18

GOOD FAITH GUARANTEE

18.1 As an explicit condition hereof, the parties are committed to observe this Agreement in good faith. The Union com-

mits the locals and every longshoreman it represents to observe this commitment without resort to gimmicks or subterfuge. The Employers give the same guarantee of good faith observance on their part.

SECTION 19
STEAM SCHOONERS

* * *

SECTION 20
TERM OF AGREEMENT AND ITEMS OPEN TO REVIEW DURING TERM OF AGREEMENT

20.1 This Agreement shall remain in effect—unless terminated in accordance with other provisions in the Agreement or unless the termination date is extended by mutual agreement—until July 1, 1966, and shall be deemed renewed thereafter from year to year unless either party gives written notice to the other of a desire to modify or terminate the same, said notice to be given at least sixty (60) days prior to the expiration date. Negotiations shall commence within ten (10) days after the giving of such notice.

20.2 Any item in this Agreement except Mechanization and Modernization and Pensions shall be subject to review on June 15, 1965, at the request of either party. Mechanization and Modernization and Pensions are reviewable as provided in the respective Supplementary Agreements.

20.21 The party desiring review shall give notice of the items to be reviewed not less than thirty (30) days prior to the review date. Negotiations shall take place during the first fifteen (15) days thereafter and any unresolved items shall be referred to the Coast Arbitrator, the award to be rendered by the review date. Any adjustment in the basic straight or overtime rates agreed to by the parties or an award rendered by the Coast Arbitrator shall become effective with the day shift on the Monday nearest the review date.

SECTION 21

WELFARE, PENSION, MECHANIZATION AND MODERNIZATION PLANS

21.1 The parties hereto have agreements on the subjects of Welfare, Pensions and on Mechanization and Modernization for longshoremen covered by this Agreement as set forth in the Second Amended ILWU-PMA Welfare Agreement and ILWU-PMA Welfare Fund—Declaration of Trust, the First Amended ILWU-PMA Pension Agreement and ILWU-PMA Pension Fund —Declaration of Trust, the ILWU-PMA Supplemental Agreement on Mechanization and Modernization and the Trust Indentures established under the ILWU-PMA Mechanization and Modernization Plan.

SECTION 22

MODIFICATION

22.1 No provision or term of this Agreement may be amended, modified, changed, altered or waived except by a written document executed by the parties hereto.

22.2 All joint working and dispatching rules shall remain in effect unless changed pursuant to Section 15. All other restrictions on the employer or longshoremen that are in conflict with the provisions of this Agreement are null and void.

22.3 The parties agree to meet for the purpose of codifying their agreement with respect to the subject matter covered in arbitrators' awards and rulings of the Joint Coast Labor Relations Committee. The parties will incorporate that agreement into the Pacific Coast Longshore Agreement at a time and in a manner to be agreed to by the parties.

EXHIBIT 2

March 18, 1958

MEMORANDUM
OF RULES COVERING REGISTRATION AND DE-REGISTRATION OF LONGSHOREMEN IN THE PORT OF SAN FRANCISCO

This is a memorandum of rules adopted and promulgated this ..... day of March, 1958, by the San Francisco Joint Port Labor Relations Committee pursuant to the authority set forth in Section 7(c)(1) of the Basic Pacific Coast Longshore Agreement, as amended through December, 1955. The parties acknowledge that the rules herein contained are intended by them to be in conformity and consistent with the provisions of the Basic Pacific Coast Longshore Agreement and the parties declare this to be their binding interpretation of the provisions of said Basic Agreement. The parties further acknowledge that the rules herein contained are intended by them to be an application of the pertinent provisions of the Basic Agreement to the problems and conditions peculiar to the Port of San Francisco and are not intended to establish any precedent with reference to practices followed or to be followed in any other port covered by said Basic Agreement.

§ 1. Seniority groups.

Longshoremen employed shall fall in the following categories:

A. Registered Longshoremen.

B. Limited Registration Longshoremen.

Other workers doing longshore work (Social Security men) are casuals and have no seniority rights or registration status.

§ 2. Fully Registered List.

(a) Men currently having full registration shall constitute the registered list (Class A). Where de-registration is necessary to

reduce the list, the last man added to the list shall be the first man off. Men so removed from the registered list shall have the right, within ten days of removal, to apply for positions at the top of the limited registration list and, if application is duly made, shall so be placed on such list without the application of the provisions of §§ 6 and 8. Such men who remain on the limited registration list shall have first call to return to the registered list, last man off the registered list, who is not de-registered from the limited registration list, shall be the first to return to said registered list and without following the provisions of § 3(b) or § 7(b).

(b) An approved leave of absence from the industry by the Joint Labor Relations Committee for not more than ninety days shall not affect a registered longshoreman's seniority; however where the leave (including any extensions) is for in excess of ninety days or is indefinite, no seniority shall accumulate except during the first ninety days of such leave. All leaves of absence shall be obtained from the Joint Labor Relations Committee and shall be granted upon request if good cause for granting such leave is shown after due consideration.

(c) Longshoremen who are fully registered in any port covered by the Basic Agreement who transfer to the Port of San Francisco with the approval of the Port Joint Labor Relations Committee shall be given credit for seniority accumulated in the prior port. Hereafter the amount of such seniority shall be fixed and approved when the transfer is approved by the Joint Labor Relations Committee. This shall determine the transferee's position on the Class A list for purposes of § 2(a), etc.

§ 3. Limited Registration List.

(a) A limited registration list (Class B) shall be jointly prepared by the parties.

(b) The limited registration list (Class B) shall be revised annually (or semi-annually if the Joint Labor Relations Committee

so determines) so that the names thereon are arranged in sequence on the basis of availability for all work dispatched as shown on the records of the San Francisco dispatch hall, the Joint Labor Relations Committee and the Central Pay Office for the preceding year. A man will be given credit for 100% availability in any week in which he was either signed in or was at work on 6 days and had no flops. Availability is willingness and availability to take any type of work at any time it is offered and regardless of the duration of the job.

(c) Any men added to the limited registration list as provided in § 2(a) hereof shall have seniority over those men referred to in § 3(a) hereof, and as set forth in § 2(a).

(d) The seniority of any men added to the limited registration list hereafter shall commence as of the date such names are added to said list.

§ 4. Casual Workers.

There shall be no list of casuals doing longshore work.

§ 5. Applications for registration.

The Joint Labor Relations Committee shall determine when applications for registration shall be accepted. Notice of the taking of applications for full (Class A) registration and for limited (Class B) registration shall be given in the Dispatch Hall and Pay Office and may also be in such other form as is determined by the Joint Labor Relations Committee.

§ 6. Joint Action on applications.

(a) Applications for registration and for limited registration must be approved by both parties. Consideration shall be given to each applicant's work history and all phases of his qualifications to do all the work of longshoremen.

(b) De-registration for cause from the limited registration list (Class B) or from the registration list (Class A) shall exclude a man from a place on either registration list.

(c) Neither membership or nonmembership in the union nor activity or nonactivity for or against the union, shall be a factor in considering applications for registration or in de-registration. No person shall be placed on the registered list or on the limited registration list except in accordance with these rules and unless he is fully qualified and competent to work as a longshoreman.

§ 7. Additions to list of Fully Registered Longshoremen.

(a) Additions to the registered list (Class A) shall be made solely on the basis of applications from the limited registration list (Class B). The men at the top of the limited registration list shall be given, in sequence, first opportunity to apply for full registration.

(b) Additions shall be made after notice, in the number and at the time fixed by the Joint Labor Relations Committee. Each application shall be reviewed on the basis of the standards set forth in § 6 above, with consideration of ability, efficiency, experience, regular availability and other relevant factors. A longshoreman on the limited registration list (Class B) will not be eligible to promote to the registration list (Class A) unless he becomes entitled to Benefits B under the Welfare Plan and the comprehensive physical examination available to him as one of said benefits shows that his physical condition is such that he is fully able to do all types of longshore work.

(c) The foregoing shall not prejudice any right given under or by virtue of Section 7(d)(1) of the Basic Longshore Agreement.

§ 8. Additions to the Limited Registration List.

(a) Additions to the limited registration list shall be made from time to time as determined by the Joint Labor Relations

Committee. Subject to the provisions of subsection (b) hereof, when such additions are made first preference shall be given to men who have had previous full longshoremen's registration in this port who were not de-registered for cause; second preference shall be given to men who have had partial or limited registration in this port who were not de-registered for cause.

(b) An applicant with previous registration in this port shall be entitled to such preference only if he had registered status on or after June 16, 1951 and if he voluntarily left longshore work (that is, by being de-registered on his own initiative while he had a record as a longshoreman regarding working average hours, etc., that was satisfactory to both parties) and then only if the period since his such de-registration is shorter than the period he was a registered longshoreman in this port. Credit for past experience shall be given only for time on the formal full registration list of longshoremen of this port.

(c) With respect to any application of one who claims a preference because of previous full or limited registration: The end of the applicant's period without registration for the purpose of the particular application shall be deemed to be the date of the receipt of the application for re-registration being considered by Joint Labor Relations Committee.

(d) Additions to the limited registration list (Class B) may be made under § 2(a).

(e) Other additions to the limited registration list (Class B) shall be made after notice in the number and at the time fixed by the Joint Labor Relations Committee. Each application shall be reviewed on the basis of the standards set forth in § 6 above and each applicant shall be evaluated on the basis of the procedure adopted by the Committee to amplify these basic rules covering registration and de-registration. including a pre-registration physical examination.

(f) Applicants shall be interviewed after notice by mail. Failure to appear as directed shall be considered a withdrawal of application. All decisions made after the interview and investigation shall be final.

(g) If the members of the Joint Port Labor Relations Committee fail to agree upon any application, such question shall be immediately referred at the request of either party to the Joint Area Labor Relations Committee for decision as an unresolved grievance subject to the procedure of Section 16 of the Basic Longshore Agreement.

§ 9. De-registration of Limited Registration (Class B) Longshoremen.

(a) A Class B longshoreman may be de-registered in accordance with the provisions of Section 16(f) of the Basic Longshore Agreement and, in addition, he may be de-registered for cause by the Joint Labor Relations Committee (in accordance with such rules or uniform procedures as may be established or followed by such Committee) if the Committee finds:

(i) That he has made any significant misstatement or misrepresentation in his application or interview.

(ii) That he has failed, without leave of absence or adequate reason or excuse, to register at the Dispatch Hall for a period of four consecutive weeks, such de-registration to be effective as of the beginning of such four week period.

(iii) That he has obtained and is engaged in other work or employment on a full time basis except with the approval or upon authorized leave of absence of the Joint Labor Relations Committee.

(iv) That over a period of three months or more he has had a poor work record as evidenced by frequent failures to sign-in, flops or other facts indicating that he has not made himself available for full time dispatch through the

Hall, except where he is on leave of absence for illness, disability or for other reason approved by the Joint Labor Relations Committee.

(v) That he has failed to make himself available for any work or shifts to which he may have been assigned by the Joint Labor Relations Committee.

(vi) That he is physically unable to do the work of a longshoreman, except where his disability has been incurred by industrial injury or disease occurring during the course of his employment as a longshoreman on the limited registration list.

(vii) That he fails to develop in respect to the abilities or knowledge requisite to the performance of longshore work and/or if he fails to participate in the longshore training program jointly established by the parties.

(viii) That he fails to participate where he is involved, in procedures established to provide contract compliance, or that he has violated any other contract provision for which registered longshoremen may be penalized and fails to submit to discipline or penalty regularly provided in the case of registered longshoremen.

(ix) That he has been working in a manner which endangers the safety of other longshoremen.

(x) That he failed to take a physical examination as required by the Joint Port Labor Relations Committee or failed to submit the full report thereof to the Joint Port Labor Relations Committee.

(xi) Or for any other cause; provided that neither membership or nonmembership in the union nor activity or nonactivity for or against the union, shall be a factor in considering applications for registration or in de-registration.

(b) Either party, if it shall have information indicating that a Class B longshoreman is subject to de-registration for cause,

may, at a regular meeting of the Joint Labor Relations Committee propose the de-registration of such Class B longshoreman and submit to the Committee any evidence in support thereof; if after consideration of the evidence submitted, the parties jointly concur in the proposal to de-register such Class B longshoreman, he shall be de-registered as of the last day on which he worked as a longshoreman; however, notice of such action taken shall be given by ordinary mail to the person so de-registered, and upon proper application in writing, having been made to the Joint Labor Relaions Committee by such person within fifteen (15) days after the mailing of such notice, said person so de-registered shall be given a hearing by said Joint Labor Relations Committee at which hearing he may submit evidence as to the facts considered by the Committee and others relevant to de-registration; in the event that the Joint Labor Relations Commitee, after such hearing shall be satisfied that the person de-registered has shown that he was de-registered contrary to the rules, because of material mistake of fact or otherwise, and there was no ground for his de-registration, it may by unanimous vote rescind such de-registration; otherwise said de-registration shall be effective as of the date on which such de-registered person last worked as a longshoreman. Such notice of de-registration shall be by letter in substantially the following form:

Dear Sir:

You are hereby notified that on the ..... day of ....., 19....., at a regular meeting of the Joint Labor Relations Committee, by unanimous vote, you were de-registered for cause as a Class B longshoreman, pursuant to the provisions of § 9 of the "Memorandum of Rules Covering Registration and De-registration of Longshoremen in the Port of San Francisco". Such de-registration was based upon the determination of the Committee that

you have violated the applicable rules, and particularly that you have .....(here give particulars).....

In the event that the Joint Labor Relations Committee receives within fifteen (15) days after the date of this letter, a detailed written statement signed by you, satisfactorily demonstrating that the foregoing statement of facts is erroneous and that there is no ground for your de-registration, and requesting a hearing, you will be given a hearing, at which you may show cause, if any you have, why such de-registration should be rescinded.

Pending such a hearing or in the event no further action is taken by you, you are and have been de-registered as a Class B longshoreman as of the ..... day of ....., 19..... and are not and will not further be entitled to the rights and privileges of such Class B registration.

Very truly yours,

JOINT LABOR RELATIONS COMMITTEE

By .....

By .....

(c) Limited registration (Class B) longshoremen may be de-registered if the Joint Labor Relations Committee determines the list is too long for the amount of work available. De-registration shall be from the bottom of the list after all men who have given cause for de-registration are dropped.

JOINT PORT LABOR RELATIONS COMMITTEE

EXHIBIT 428

SAN FRANCISCO JOINT PORT LABOR RELATIONS COMMITTEE

April 1, 1958

LETTER OF INSTRUCTIONS

Attached is the application form you requested for applying for Class "B" limited registration as a longshoreman in the port of San Francisco.

All applications are issued and will be received and processed in accordance with the provisions of the rules covering registration and deregistration of longshoremen in the Port of San Francisco, to implement the Basic Pacific Coast Longshore Agreement between International Longshoremen's and Warehousemen's Union and the Pacific Maritime Association.

You have been sent *two* forms, each containing your name and address, and *both* of these forms must be returned to San Francisco Joint Port Labor Relations Committee, P. O. Box 2298, San Francisco 26, to be received *no later than April 30, 1958.* Applications not received by that date will not be considered.

Before filling out the application, read the box at the end carefully. It states the conditions under which your application will be received.

After completing the form, sign both copies. *Six cents* (6¢) postage is required on the envelope in which you return to us the two completed copies.

An application will be considered only if:

1. It is returned in duplicate in time.
2. It is completely filled out and signed.
3. You agree to meet the requirements in the enclosed box at the end of the application, above your signature.

A post-card indicating your application has been received will be sent you if it arrives before the closing date stated above.

All persons given final consideration for registration will be required to appear in person for an interview at the time and place set by the Committee. Notice of such interview, time and place will be mailed to each individual applicant under final consideration.

Other applicants will receive no notice from the Committee. Failure to hear from the Committee on or before July 30, 1958 should mean you are turned down at this time.

SAN FRANCISCO JOINT PORT LABOR
RELATIONS COMMITTEE

EXHIBIT F

SAN FRANCISCO JOINT PORT LABOR RELATIONS COMMITTEE

P. O. BOX 2298 • SAN FRANCISCO 26, CALIFORNIA

APPLICATION FOR LIMITED CLASS "B" REGISTRATION AS A LONGSHOREMAN

* * *

PREVIOUS REGISTRATION OR EMPLOYMENT STATUS IN THE LONGSHORE INDUSTRY

* * * [1]

HEALTH AND PHYSICAL CONDITION

* * * [2]

AVAILABILITY AND DESIRE FOR FULL TIME EMPLOYMENT AS A LONGSHOREMAN

* * * [3]

RECORD

EMPLOYMENT RECORD *Give Complete History of Employment in the following spaces:*

* * *

UNION RECORD, IF ANY *Give complete history of Union affiliations, if any, in the following spaces:*

* * * [4]

PERSONAL DATA

* * *

EDUCATIONAL DATA

* * * [5]

REFERENCES

* * *

I, ... understand that my application is received under the following conditions to which I agree:

1. By receiving this application, the Joint Port Labor Relations Committee does not assume, agree, or undertake to accord me any registration or employment whatsoever.

2. Failure to appear on request for interview or to answer any and all questions in this form and those which I may be asked by the Joint Port Labor Relations Committee or any misstatements or misrepresentations may be cause for disqualification or deregistration.

3. The Joint Port Labor Relations Committee does not assume, agree or undertake to notify me of its action, if any, unless my application for Limited Class "B" registration is granted. Failure to notify me of my selection within ninety (90) days after the filing of the application shall be deemed to be adequate notice that my application has not been granted. * * *

4. Class "B" registration, if granted, shall be subject to agreements between the PMA and ILWU, or their successors, and to rules with respect to registration and deregistration established by said parties; I understand that registered longshoremen may be deregistered and that registration may be revoked in accordance with such agreements and such rules now in effect or hereafter to be agreed upon or adopted by the Association and the Union or their successors or by the Joint Port Labor Relations Committee.

5. * * *

.....

Signature of Applicant

.....

Date application signed

* * * [6]

EXHIBIT CL

LONGSHORE LABOR RELATIONS COMMITTEE
OF SAN FRANCISCO

St. Clair Building
16 California Street

Dispatching Hall
Bulkhead
Piers 16-18

San Francisco 11, Calif.
February 25, 1959

Dear Sir:

You are being given further consideration as an applicant for registration as a Class "B" longshoreman in the port of San Francisco, and you are hereby requested to report for an interview with this Committee, in accordance with the procedure governing Class "B" registration rules and regulations, on ..... at Room A 26—ground floor of Ferry Bldg. (south wing).

You are required to bring with you at that time your Social Security card; also your birth certificate, military discharge, if any, or in lieu thereof, suitable evidence that will be satisfactory to the Committee as to your date of birth. If a naturalized citizen, bring your naturalization papers. If an alien, bring your alien registration papers.

If you are successful in passing the interview, you will next be required to take a thorough physical examination. The cost of the physical examination will be borne by the Joint Labor Relations Committee. If you are accepted for registration, you will be required to pay initially a registration fee of $8.00 to cover a portion of the other costs of registration, payable prior to registration,

and will be required to pay another $8.00 after 60 days following registration as a condition to retaining your registration and as a further payment toward the other costs of the registration procedure.

If you are registered and make the two payments of your registration fee, your registration will nevertheless be subject to termination, revocation or other action by the Joint Labor Relations Committee.*

As a matter of courtesy, we would ask you to advise this Committee if you do not expect to be present at the time designated for oral examination, or if you know that you cannot pass a rigid and thorough physical examination.

We wish to further advise you that should you fail to appear at the time and place designated for your interview, or at the time and place designated for your physical examination, you will be automatically disqualified and stricken from the list as far as further consideration for registration is concerned.

Very truly yours,
J. R. Snyder
Secretary

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*A registered man, if he is not a union member, is required under the contract to pay to the union toward the support of the dispatching hall a sum equal to the prorata share of the expense of support of the hall paid by each member of the union. Failure to make such payments or to abide by other provisions in the contract, working rules or determinations of the Joint Labor Relations Committee can be cause for suspension or loss of registration.

EXHIBIT CF

LONGSHORE LABOR RELATIONS COMMITTEE
OF SAN FRANCISCO

St. Clair Building
16 California Street

Dispatching Hall
400 North Point St.

San Francisco 11, Calif.
July 30, 1959.

To San Francisco Class "B" Longshoremen:

In addition to the rules and regulations set forth in the enclosed Longshore Labor Relations Committee minutes of Meeting No. 29-A of June 17, 1959, which are particularly applicable to Class "B" men, we wish to further call your special attention to the provisions governing de-registration of Class "B" men in the "Memorandum of Rules Covering Registration and De-Registration of Longshoremen in the Port of San Francisco", dated March 18, 1958.

Following is an excerpt of Section 9 of the above Agreement covering other provisions of de-registration:

"9. *De-registration of Limited Registration (Class B) Longshoremen.*

(a) A Class B longshoreman may be de-registered in accordance with the provisions of Section 16(f) of the Basic Longshore Agreement and, in addition, he may be de-registered for cause by the Joint Labor Relations Committee (in accordance with such rules or uniform procedures as may be established or followed by such Committee) if the Committee finds:

(i) That he has made any significant misstatement or misrepresentation in his application or interview.

(ii) That he has failed, without leave of absence or adequate reason or excuse, to register at the Dispatch Hall for a period of four consecutive weeks, such de-registration to be effective as of the beginning of such four week period.

(iii) That he has obtained and is engaged in other work or employment on a full time basis except with the approval or upon authorized leave of absence of the Joint Labor Relations Committee.

(iv) That over a period of three months or more he has had a poor work record as evidenced by frequent failures to sign-in, flops or other facts indicating that he has not made himself available for full time dispatch through the Hall, except where he is on leave of absence for illness, disability or for other reason approved by the Joint Labor Relations Committee.

(v) That he has failed to make himself available for any work or shifts to which he may have been assigned by the Joint Labor Relations Committee.

(vi) That he is physically unable to do the work of a longshoreman, except where his disability has been incurred by industrial injury or disease occurring during the course of his employment as a longshoreman on the limited registration list.

(vii) That he fails to develop in respect to the abilities or knowledge requisite to the performance of longshore work and/or if he fails to participate in the longshore training program jointly established by the parties.

(viii) That he fails to participate where he is involved, in procedures established to provide contract compliance, or that he has violated any other contract provision for which registered longshoremen may be penalized and fails to sub-

mit to discipline or penalty regularly provided in the case of registered longshoremen.

(ix) That he has been working in a manner which endangers the safety of other longshoremen.

(x) That he failed to take a physical examination as required by the Joint Port Labor Relations Committee or failed to submit the full report thereof to the Joint Port Labor Relations Committee.

(xi) Or for any other cause; provided that neither membership or nonmembership in the union nor activity or nonactivity for or against the union, shall be a factor in considering applications for registration or in de-registration. - - - -".

J. R. Snyder,
Secretary
Meeting No. 29-A—1959

MINUTES OF SPECIAL MEETING OF THE LONGSHORE LABOR RELATIONS COMMITTEE OF SAN FRANCISCO

JUNE 17, 1959

Committee met at 2:00 P.M. at 16 California Street.

Present:

For Employers	*For ILWU Local 10*
J. R. Snyder, Secty.	W. Chester
J. Trupp	C. Hoffman
J. Edwards	G. Pickering
	R. Rohatch

This was a meeting of the special Labor Relations Committee working on the Class "B" registration.

Committee discussed the dispatching rules governing Class "B" men and felt that certain rules should be clarified to the men as follows:

1. Class "B" men are not permitted to volunteer or to choose jobs, but must take the jobs handed or assigned to them at the dispatching windows.
2. Men who refuse or flop jobs or fail to show on the job, cannot work on the same day or night shift for which they refused or flopped, and must add 6 hours to their accumulated low-man-out sign-in hours.
3. Class "B" men must work or be available 70% of each 30-day period.
   (a) Class "B" men must appear before the Longshore Labor Relations Committee to obtain leaves of absence for periods of time exceeding two weeks.
4. If a man is dispatched in error, or there is an over-dispatch of men to a job, such men will sign in at the same hours on which they were originally dispatched, providing they did not receive other work or pay on that shift. (Class "B" dispatch slips will not be signed or ok'ed for another job for the following shift.)

Disciplinary Action for Class "B" Men

The following rules apply to Class "B" men:

1. *Guilty of pilferage:* Automatic deregistration
2. *Guilty of smoking on the job in unauthorized places:* Same penalties as Class "A"
3. *Guilty of intoxication:* First offense—30 days
   Second offense—Mandatory de-registration
4. *Guilty of assault or battery, or doing bodily harm:* Automatic suspension and de-registration
5. Misconduct in the Hall or refusal to work as directed; refusal to take orders; leaving the job without authoriza-

tion; creating disturbances; fighting or assault; or general improper attitude, including arriving late on the job or leaving the job early:

Severe disciplinary action, depending on severity of offense and number of previous offenses, by the Labor Relations Committee. Such action to count against the individual when consideration is given to promotion to Class "A" registration.

6. *Failure to show on the job or replace himself:*

   Two weeks suspension (first offense).

7. No work or availability for 30 days without bona fide leave of absence:

   Automatic de-registration.

Instructions to the Chief Dispatcher:

1. A daily record of individuals who refuse a job or flop is to be kept for the Labor Relations Committee.
2. When "B" men are needed on nights they shall be taken in groups starting at the top of the list. The number to be established by the LRC. The men to be rotated every 30 days.
3. The Chief Dispatcher shall keep a record of the men who show an improper attitude or misbehavior to the dispatchers; such record to be passed on to the Labor Relations Committee.
4. Dispatchers are instructed to follow all LRC rules of dispatch regarding Class "B" men.

Meeting adjourned at 4:30 P.M.
Approved July 2, 1959.

/s/ George Pickering /s/ J. R. Snyder

EXHIBIT P

MEMORANDUM OF UNDERSTANDING
Between
PACIFIC MARITIME ASSOCIATION
(on behalf of its Members)
And
INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION
(on behalf of itself and all Longshore and Marine Clerks Locals in California, Oregon and Washington)

The following statements cover those items agreed to by the parties in the 1959 negotiations as amendments to the 1958 ILWU-PMA contracts, which contracts are reexecuted, except as modified hereby:

WAGES

* * *

MECHANIZATION

Mechanization and the utilization of laborsaving devices have been a subject of discussion between the parties since 1957. During the course of the 1959 negotiations the following items were agreed to on this subject.

To allow a certain amount of time (not more than one year) for the parties to further study and gain factual experience:

(1) of actual changes made by laborsaving machinery, changed methods of operation, or proposed changes in working rules and contract restrictions, resulting in reduced manpower or manhours with the same or greater productivity for an operation;

(2) of savings to the employer because of such changes;

(3) of a proper share of such savings to be funded as hereinafter provided; and

(4) of the manner of distributing such fund to the fully registered work force:

A) PMA proposes to create a coastwise fund for the fully registered work force, through contributions by the Employers to be accumulated during the first ensuing contract year, in the amount of one million five hundred thousand dollars. This amount, in addition to "buying time" for necessary study and experience, represents a recognition by the Employers that savings accrue as a result of mechanization and changed methods of operation, and a recognition by the Union that no additional payment is due for changes made or to be made prior to June 15, 1960. This payment shall constitute a part of the consideration for renewal of the contract, and shall be distributed to the fully registered work force in a manner to be determined. (Tax and legal problems to be resolved.)

B) It is the purpose and intent of the parties, during the course and as the result of this study period, to achieve and meet the following aims and objectives:

1. To guarantee the fully registered work force a share in the savings effected by labor saving machinery, changed methods of operation, or changes in working rules and contract restrictions resulting in reduced manpower or manhours with the same or greater productivity for an operation.

2. To maintain the 1958 fully registered work force, with allowance for normal attrition.

3. To create a coastwide fund for that work force through contributions by the Employers, such contributions to come from savings described in paragraph B) 1. hereof.

4. To provide that this fund will be separate from contractual wages, pensions, welfare and vacations.

5. To guarantee the PMA the right to make changes, and remove restrictions along with protection against reprisals for making such changes, and enforcement under the contract of such changes if and when made.

During the ensuing year, in addition to making such study, the following agreements shall be in effect:

a. PMA will accumulate the one million five hundred thousand dollar fund as provided in A) hereof.

b. PMA shall be free to make such changes as are deemed necessary under Section 14 of the present Longshore contract, and Section 25 of the present Clerks' contract, restricted however by the observance of rules prohibiting individual speed-up and unsafe operations. The load agreement shall continue.

Except for changes in operations made hereafter by introducing laborsaving devices in addition to those already used and practiced by him in the past, the Employer shall not invoke the provisions of Section 14 of the Longshore Agreement or Section 25 of the Clerks' Master Agreement during the ensuing year. Nor shall the Employer seek a reduction of gang sizes or number of Clerks, elimination of multiple handling, or other existing contract or working rule restrictions with relation to operations now existing, except during future annual review negotiations or by mutual agreement.

c. The parties will continue negotiations on the matters outlined in this proposal for a period of not to exceed one year for the purpose of determining a basis for converting the above fund and Employer contributions thereto to a continuing basis which will meet the aims and objectives set forth herein. Such negotiations shall not exclude tonnage taxes, manhour assessments, or

any other basis of conversion, nor exclude conversion of present contributions for welfare, pensions and vacations.

d. The parties shall continue to operate in accordance with the terms of the contract and working rules, with mutual agreement against reprisals and for enforcement of the contracts, working rules and the provisions of this agreement.

8-HOUR GUARANTEE

* * *

D. MANEUVERABILITY AND FLEXIBILITY OF THE WORK FORCE

1. In order to prevent as much as possible Employers being required to pay for "dead time" or time not worked by the application of the 8-hour guarantee, the Employers shall have maximum maneuverability and flexibility of the work force, Longshore and Clerks. They may shift men and gangs—from ship to ship, from direct employer to direct employer, from steamship company to steamship company or any combination thereof.

* * *

(i) The shifting of registered and limited registered men to fulfill the guarantee shall be carried out without bumping other men to create available work.

* * *

E. RULES AND EXAMPLES APPLICABLE TO SHIFTING MEN AND/OR GANGS

* * *

NEW EQUIPMENT

It is recognized that the Employer has the right to select competent men for all operations. When new types of equipment are introduced in connection with cargo handling covered by the contractual definitions of work, such new equipment shall be operated by employees under the ILWU contracts, with the understanding

that competent men shall be made available by the ILWU, with adequate experience or training. This proposal shall not change the status quo as to assignment of other than ILWU workers on existing equipment.

VACATIONS

* * *

WELFARE

* * *

PENALTY CARGOES

* * *

PROTECTIVE CLOTHING AND DEVICES

* * *

RELIEF PERIODS

It is recognized that employees are entitled to reasonable and necessary time off for relief. Relief periods shall be arranged so as to fall around the mid-point of the work period involved, having due regard for the continuity and nature of the work. The ILWU agrees there shall be specific contract language to prevent the abuse of such relief periods or their being used as a subterfuge to operate as a 4-on—4-gone practice, or variations thereof, and to insure that men will observe specified times for starting, resuming and finishing work.

PORT WORKING AND DISPATCHING RULES AND LOCAL AGREEMENTS

It was agreed, with regard to port working and dispatching rules that:

1) Any rules which conflict with or prevent the operation of the new contract provisions shall be changed.

* * *

LEGAL QUALIFICATIONS

* * *

GOOD FAITH GUARANTEE

As an explicit condition of agreement, the parties exchanged commitments that the Agreement as amended will be observed in good faith. In answer to the Employers' demand for such a guarantee, the Union Negotiating Committee and Caucus unanimously voted to commit every local and every member to observe such commitment without resort to gimmicks or subterfuge. The Employers gave a similar guarantee of good faith observance on their part.

In order to implement this good faith guarantee, it was agreed that whenever the local grievance machinery becomes stalled or fails to work the matter can be referred at once by either party to the Coast Labor Relations Committee for disposition. This understanding applies with special force to issues arising with regard to mechanization under Section 14 of the Coast Agreement and Section 25 of the Clerks' Agreement, and to the application of the 8-hour guarantee. Any problems arising over changes in local working or dispatching rules because of the new contract provisions can be thus referred to the Coast level for prompt disposition.

LENGTH OF CONTRACT

The contract shall be for a period of three years, terminating June 15, 1962, with an opening on wages, mechanization and hours in June, 1960; and an opening the second year, June, 1961, on wages, hours, mechanization and paid holidays. If settlement is not reached by negotiations, either party may submit unresolved issues to the Coast Arbitrator.

(The Union has agreed without commitment on either side that there shall be discussions regarding the problems of domestic carriers.)

Dated: August 10, 1959

PACIFIC MARITIME ASSOCIATION
on behalf of its members

/s/ J. Paul St. Sure

INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION
on behalf of itself and all Longshore and Marine Clerks Locals in California, Oregon and Washington

/s/ L. B. Thomas

EXHIBIT Q

MEMORANDUM OF AGREEMENT
On
MECHANIZATION AND MODERNIZATION

October 18, 1960

A. PROVISIONS FOR EFFICIENT OPERATIONS

1. (1) The Longshore and Clerk's Agreements and local agreements (exclusive of Walking Boss Agreements) shall be revised and amended in the manner set forth herein so as to eliminate restrictions in the contract and working rules, as well as in unwritten but existing Union unilateral restrictions and arbitration awards which interfere with the Employers' rights dealing with sling loads, first place of rest, multiple handling, gang sizes, and manning scales, so as to allow the Employers to:

a. Operate efficiently
b. Change methods of work
c. Utilize labor-saving devices
d. Direct the work through Employer representatives while explicitly observing the provisions and conditions of the Agreements protecting the safety and welfare of the employees and avoiding speed up. "Speed up" shall be understood to refer to an onerous workload on the individual worker. It shall not be construed to refer to increased production resulting from more efficient utilization and organization of the work force, introduction of labor-saving devices, or removal of work restrictions.

2. (2) It is the intent of this document that the contract, working and dispatching rules shall not be construed so as to require the hiring of unnecessary men. The question of whether or not men are necessary shall be based on a determination of

the number of men required to perform an operation in accordance with the provisions of paragraph A (1). Such determination shall take into account the contractual provisions for relief, the fact that during many operations all men will not be working at all times due to the cycle of the operation, but this shall not be construed to sanction such practices as four-on four-off or variations thereof.

3. The Employer may seek through the provisions of the contract machinery to change only those contract provisions, working and dispatching rules which are in conflict with the provisions and intent of this document. Where changes are agreed upon at the Coast Committee level they shall go into effect. Where changes remain in dispute they shall be resolved by the contract machinery.

SLING LOAD LIMITS

* * *

PLACE OF REST AND MULTIPLE HANDLING

* * *

GANG SIZES AND MANNING

* * *

B. MODERNIZATION AND IMPROVEMENT FUND PROVISIONS

38. In return for a revised Longshore and Clerks' Agreement incorporating the provisions set forth in Paragraphs A and C "PROVISIONS FOR EFFICIENT OPERATIONS", PMA will establish a jointly trusteed Fund as hereinafter provided. The administration and application of these revisions of the contract shall be subject to the grievance procedure at the Coast level.

39. 1. The Fund shall include the $1.5 million accumulated prior to June 15, 1960, and will be supplemented by PMA contri-

butions of $5,000,000 per year for a period of five and one-half years. If at any time the maximum payments per year do not provide sufficient money to meet fully the guarantees and benefits, the guarantees and benefits shall be reduced proportionately.

40. 2. The Fund shall be segregated into two parts and used for the following purposes:

41. (a) For all present fully registered longshoremen and Clerks, minus attrition; a guarantee of payment for a specified number of hours of straight-time pay per week at the then current contract rate, computed on an annual basis. Such guarantee shall become operative only when hours fall below the agreed level due to reduced work opportunity resulting from changes as provided in Paragraph A hereof, but shall not apply to a drop in tonnage due to a decline in economic activity. Details of eligibility and administration to be negotiated.

42. (b) For all present fully resgistered longshoremen and Clerks, minus attrition; the types of benefits provided in Union Draft of 10/4/60 Paragraph (2) (b), Paragraphs (1) to (7) inclusive. The amounts of such benefits to be determined by the Union. (See Exhibit "A", attached.)

43. In regard to the benefit entitled "Mandatory Pensioning" PMA-ILWU shall have joint control over application of early mandatory retirement. If the parties disagree, differences will be subject to arbitration.

C. GENERAL PROVISIONS

* * *

D. DURATION

55. This Agreement shall become effective upon ratification by both parties and shall run to July 1, 1966.

E. AMENDMENTS TO BASIC LONGSHORE AND CLERKS AGREEMENTS

* * *

EXHIBIT OA

SUPPLEMENT TO PACIFIC MARITIME ASSOCIATION AND INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION AGREEMENTS

This SUPPLEMENT to all agreements by and between Pacific Maritime Association (hereinafter called "the Association") on behalf of its members and the International Longshoremen's and Warehousemen's Union (hereinafter called "the Union"), on behalf of itself and each and all of its longshore locals in California, Oregon and Washington and each and all of its other locals having agreements with the Association or representing employes working under such agreements and all employes performing work in the scope, terms and conditions of the several agreements,

WITNESSETH:

WHEREAS, the Association and the Union have agreed on the desirability of supplemental provisions with respect to their policy of no discrimination being incorporated in all agreements between the Association and the Union.

NOW, THEREFORE, the Association and the Union agree that each of the said agreements between the Association and the Union shall be, and hereby is, supplemented to include the following provisions and that the following provisions shall be in full force and effect as a part of each of the said agreements upon the execution of this supplement:

1. (§ 13.1) There shall be no discrimination in connection with any action subject to the terms of this Agreement either in favor of or against any person because of membership or non-

membership in the Union, activity for or against the Union or absence thereof, or race, creed, color, national origin or religious or political beliefs.

2. (§ 17.4) When any employe (whether a registered employe or an applicant for registration or a casual employe) claims that he has been discriminated against in violation of Section (13) of this Agreement, he may at his option and expense, or either the Union or the Association may at its option and at their joint expense, have such complaint adjudicated hereunder, which procedure shall be the exclusive remedy for any such discrimination.

3. (§ 17.41) Such remedy shall be begun by the filing of a grievance with the Joint Port Labor Relations Committee* setting forth the grievance and the facts as to the alleged discrimination. Such a grievance shall be timely if presented within ten (10) days of the occurrence of the alleged discrimination. Such grievance shall be investigated by the Joint Port Labor Relations Committee at a regular or special meeting of the Committee at which the individual involved shall be permitted to appear to state his case, at which time he may present oral and written evidence and argument.

4. (§ 17.42) Either the Employers, the Union or the man involved may take an appeal from the decision of the Joint Port Labor Relations Committee. Such appeal shall be to the Joint Coast Labor Relations Committee by letter addressed to the Joint Coast Labor Relations Committee. To be timely, such appeal must be delivered or mailed within seven (7) days of the decision of the Joint Port Labor Relations Committee.**

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*or the Joint Labor Relations Committee if the grievance machinery does not provide for a Joint Port Labor Relations Committee.

**Add where the particular grievance clause makes no provision for a Coast Labor Relations Committee:
(The Joint Coast Labor Relations Committee under the Pacific Coast Longshore Agreement is granted jurisdiction by the parties to hear appeals under this section of this agreement.)

5. (§ 17.421) If such an appeal is taken within the time limits allowed, the Joint Coast Labor Relations Committee shall either confirm or reverse or modify the decision of the Joint Port Labor Relations Committee without any further hearing, or order a further hearing and thereupon issue its decision on the basis of the entire record including that at both hearings.

6. (§17.43) An appeal from the decision of the Joint Coast Labor Relations Committee can be presented to the Coast Arbitrator—(or by agreement of the Joint Coast Labor Relations Committee to an Area Arbitrator)—by the individual involved, the Employers, or the Union. Appeal shall be by a written request for an arbitrator's hearing mailed or delivered to the Union and the Employer representatives of the Joint Coast Labor Relations Committee if by an individual, or to the individual and the other party's representative on the Joint Coast Labor Relations Committee if by either the Union or the Employer. Such an appeal shall be timely only if such request for an arbitrator's hearing is so filed in writing with the Joint Coast Labor Relations Committee no later than seven (7) days after issuance of the decision of the Joint Coast Labor Relations Committee from which an appeal to an arbitrator is taken.

7. (§ 17.431) The arbitration procedure shall be carried on in accordance with the procedures generally applicable under this Agreement for arbitration before the Coast Arbitrator*.

8. (§ 17.15) The grievance procedure of this Agreement shall be the exclusive remedy with respect to any disputes arising between the Union or any person working under this Agreement or both, on the one hand, and the Association or any employer acting under this Agreement or both, on the other hand, and no other remedies shall be utilized by any person

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*Where the footnote on p. 3 applies, add: "the Pacific Coast Longshore Agreement."

with respect to any dispute involving this Agreement until the grievance procedure has been exhausted.

9. (§ 17.411) With respect to any claim of violation of Section (13) of the Agreement between the Association and the Union that is alleged to occur on or after the date of execution of this supplement, the Joint Port Labor Relations Committee shall extend the time for filing of such claim beyond the time established in Section (17.41) of this Agreement whenever such extension is necessary because the period of limitation otherwise applicable is determined to be unlawful or because in the judgment of the Committee in the exercise of its sound discretion, such an extension is otherwise necessary to prevent inequity but in no event shall the time for filing of such claims be extended beyond six (6) months from the date of the occurrence of the alleged discrimination.

10. (§ 17.412) At any time before six (6) months after the date of the execution of this supplement, any claim of violation of Section (13) of this Agreement that is alleged to have occurred prior to the date of execution of this supplement and that is not already barred by laches or any other lawful and applicable limitation provision as of the date of execution of this supplement, may be filed in accordance with the procedures set forth in Section (17.15) and Sections (17.4 through 17.431) of the agreements between the Association and the Union, and the limitation period for the filing of such claims is hereby extended to six (6) months from the date of the execution of this supplement.

11. (§ 17.263) When either the Union or the Association claims that there has been a violation of Section (13) by anyone bound by this Agreement, the grievance shall be submitted to the Joint Coast Labor Relations Committee* and shall be resolved

*Add "under the Pacific Coast Longshore Agreement" where the particular grievance machinery makes no provision for a Coast Labor Relations Committee.

there or referred to the Coast Arbitrator for hearing and decision in accordance with the applicable contract provisions.

Dated: January 31, 1963

PACIFIC MARITIME ASSOCIATION
/s/ B. H. GOODENOUGH

INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION
/s/ HARRY BRIDGES

EXHIBIT E

NOTICE TO ALL EMPLOYES WORKING UNDER ILWU-PMA CONTRACTS

The ILWU and the PMA contracts all include language that effectively states that any discrimination (as to race, creed, color, national origin, religious or political beliefs or union membership or activity or the lack thereof) is in violation of the collective bargaining contract. All longshoremen, clerks and all other employes represented by the ILWU in contracts with the Pacific Maritime Association (including casuals and applicants for registration) have full advantage of this nondiscrimination clause. Furthermore, the grievance machinery provides a remedy available to all such persons. This is the exclusive remedy for any claims of violation of the contract prohibition against discrimination. Any live claim of such discrimination in violation of the agreement in the past may be filed at any time before July 31, 1963, and such grievance will be deemed to be timely. In the ordinary course in the future, any such claim of discrimination must be filed within ten (10) days of the occurrence. In certain cases the committee handling the grievance will have authority to extend the period for filing such a grievance (up to a maximum period of six (6) months) if it is necessary to protect the employe from any unlawful or inequitable application of the standard period of limitations provided in the contract.

Dated: January 31, 1963

PACIFIC MARITIME ASSOCIATION
J. PAUL ST.SURE

INTERNATIONAL LONGSHOREMEN'S
& WAREHOUSEMEN'S UNION
HARRY BRIDGES

May 7, 1963

EXHIBIT GL

APPLICATION FOR FULL (CLASS "A") REGISTRATION AS LONGSHOREMAN

San Francisco

Employes with limited (Class "B") registration are the only persons eligible to file this form.

Name (in full) **Stanley L. Weir**
Address **1720 Buena Avenue, Berkeley 3, Calif.**
Limited Registration No. 80524 Social Security No. 556-28-5158

1. Have you worked continuously on the waterfront since your limited registration was issued? **Yes.** If answer is No, explain:
2. Have you done any work away from the waterfront since your limited registration was issued? **No.** If answer is Yes, explain:
3. Since you were registered, have you met the availability tests applied to limited (Class "B") registration longshoremen by the Labor Relations Committee? **Yes.** If answer is No, explain:
   I was charged in April 1963, with failure to meet the test in June 25 to July 29, 1962, but I was cleared.
4. Have you ever been delinquent in making prompt payment of your pro-rata share of dispatch hall expense? **No.** If answer is Yes, explain:
5. Have you ever violated any Labor Relations Committee "low-man out" or other dispatch rules? **No.** If answer is Yes, explain:
   I have not knowingly violated any LMO, or dispatch rules. On May 2, 1961 I was carried on overtime by error and without my knowledge. A correction was made.

6. Have you ever been subject to disciplinary action or reprimand under the contract grievance procedure? No. If answer is Yes, explain:
7. Are you now physically able to perform hold work? Yes. If not, what is your disability?
   But I am not completely recovered from an industrial accident which injured my foot on November 6, 1962. (Pier 92-MTC) However, since returning to work in March 1963, I can and have made out alright.
   Was it incurred as a result of an industrial injury? .....
   If answer is Yes, explain: (Give full details of date of injury, of place of injury, or circumstances of injury, of name and address of employer in whose employ injury was incurred, and whether compensation was paid or is now being claimed as a result of the injury.)
8. Are you now eligible for "Benefits B" under the ILWU-PMA Welfare Plan? Yes. If answer is No, explain:
9. Do you hereby certify that you are physically able and willing to work as a hold man for a period of five (5) years following any acceptance of your application for full (Class "A") registration? Yes. If answer is No, explain:

* * * * * * * * * *

If additional space is needed to explain any answer do so on a separate sheet to be attached to your application. Number the explanation to show what answer is being explained.

I, Stanley L. Weir understand that my application is received under the following conditions, to which I agree:

1. By receiving this application, the Joint Labor Relations Committee does not assume, agree or undertake to accord me full (Class "A") registration or any employment whatsoever.
2. Previous full (Class "A") registration shall have priority rights in case the number of full (Class "A") registration longshoremen is reduced.

3. Failure to appear on request for interview or to answer any and all questions in this form and those that I may be asked by the representatives of the Joint Labor Relations Committee or any misstatements or misrepresentations shall be cause for disqualification or deregistration.
4. This application for full (Class "A") registration, and employment thereunder for which I am applying, are and will be governed by the Pacific Coast Longshore and Clerks Agreement between International Longshoremen's and Warehousemen's Union and Pacific Maritime Association and by rules with respect to registration and deregistration established by these parties. If my registration is accepted, my employment will be governed by such contract and rules now in effect or hereafter to be agreed upon or adopted by these parties or any Labor Relations Committee. Registration shall be subject to the Labor Relations Committee's right to revoke my registration under rules adopted by the Committee or for failure to meet any lawful obligations under the collective bargaining contract to pay my pro-rata share of the support of the dispatch hall, the Labor Relations Committee, etc.
5. The Joint Labor Relations Committee is obliged not to discriminate against any employe or applicant for employment because of race, color, creed, or national origin. This obligation not to discriminate in employment includes, but is not limited to, the following: HIRING, PLACEMENT, UPGRADING, TRANSFER, OR DEMOTION, RECRUITMENT, ADVERTISING, OR SOLICITATION FOR EMPLOYMENT, TRAINING DURING EMPLOYMENT, RATES OF PAY OR OTHER FORMS OF COMPENSATION, SELECTION FOR TRAINING INCLUDING APPRENTICESHIP, LAYOFF OR TERMINATION. Any such discrimination or discrimination because of religious or political beliefs, or because of membership or nonmembership in the union, or because of activity for or against the union or absence thereof is a viola-

tion of Section 13:1 of the Pacific Coast Longshore and Clerks Agreement.

6. Any complaints I may have regarding my application for full (Class "A") registration, my registration, or my employment (including all discrimination complaints) will be handled under the grievance procedure set forth in the contract. The exclusive procedure for such claims begins with the filing of a grievance and its processing under the contract grievance procedure. Any grievance attacking the Committee's action must be filed within ten (10) days of the publication of notice or actual notice or notification of the Committee's action. The ten (10) day time limit on the filing of grievances means that if I do not file it within this time, I can never raise the issue.
7. This application must be filed IN DUPLICATE in accordance with instructions contained in NOTICE of Applications for Registration as Fully Registered (Class "A") Longshoremen. All written communications and grievances regarding this application should be forwarded to the Joint Labor Relations Committee, 16 California Street, San Francisco.

Draft status None Draft Board number ..... City .....
State.....

Date application signed May 8, 1963 Stanley L. Weir
(Signature of applicant)

Before signing this application fill in your name on the previous page and read and understand the conditions set forth, numbered 1 through 7, inclusive.

For JLRC use only:
Registered by Joint Labor Relations Committee ..... 19....
Full Registration No.

.....	.....
For Pacific Maritime Association	For International Longshoremen's & Warehousemen's Union

EXHIBIT 13

July 27, 1963

R. R. Holtgrave, Secretary
James Kearny, Chairman
JLRC (PMA-ILWU)
16 California Street
San Francisco, California

Dear Sirs:

Your committee de-registered me on June 17. On July 24, I received your letter denying my hearing appeal. In so doing you consummated an action that is discriminatory. You have not judged all the men involved by the same standards.

I appeal your decision and request another hearing as stipulated, where I will prove and document this discrimination.

I have never been able to get from you an official statement specifying the alleged charges against me, nor did your committee produce documents to substantiate the charges.

Would you please correct this situation for the next hearing.

Sincerely,

MELVIN KENNEDY
#1361 Oak St.
FS 18 Calif

C.T. 674, 675.

Title of Court and Cause

STIPULATION AS TO TESTIMONY

IT IS HEREBY STIPULATED by and among counsel for the plaintiffs, counsel for defendant Pacific Maritime Association and counsel for defendants, International Longshoremen's and Warehousemen's Union and Local 10 of the International Longshoremen's and Warehousemen's Union that this Stipulation as to Testimony is to provide evidence in addition to all the evidence heretofore received at this trial and is entered into subject to the following:

1. This is not a stipulation that the facts recited herein are true, but only that the witnesses would testify as set forth below.

2. No lesser, greater, or particular weight shall be given to the testimony set forth herein on the ground that it has been submitted by stipulation.

3. Each item of testimony deemed to be given by the terms of this stipulation is presented to the Court for its consideration in light of the entire record herein, including the testimony heretofore received, the exhibits heretofore received in evidence and the exhibits to be received in evidence, and for the Court's evaluation - as to its credibility, weight and sufficiency - as part of the whole record.

4. The failure to call or recall a witness to deny the accuracy of any testimony in this stipulation shall not be taken to require the inference that the parties accept the testimony as accurate.

5. The Court now has before it a record that will permit it to make lawful and proper credibility findings, to be given their usual weight on appeal, as to items of testimony submitted by this stipulation and as to any witness who is deemed to give testimony hereunder, and a record upon which the Court can resolve the relevant and material conflicts, if it finds any, within the testi-

mony here presented or between items of the testimony here presented and the balance of the record herein.[1]

* * *

I.

Each of the plaintiffs (other than Stanley Weir and James U. Carter) shall be deemed to have been called or recalled as a witness, to have been examined, and to have given the testimony herein contained as set forth hereinafter.[2]

DIRECT EXAMINATION OF PLAINTIFFS

C.T., 678:15-18.

During my employment, I attended B men's meetings when union officials told the B men to obey the rules. I assumed the union officials were referring to the rules which had been provided to me.

C.T., 680:10-11.

From time to time I had other persons of my own selection sign-in for me at the dispatching hall.

C.T., 684:8-14.

Nearly all B men were critical of the freeze on promotion in the M & M agreement. We based this criticism on our feeling that it was unfair to require us to remain in B status and on our feeling that the major financial benefits of the M & M agreement go to the Class A longshoremen only and that the Class B longshoremen would be required to do the heavier and more arduous or onerous work on the waterfront.

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1. The matter in brackets is not in the stipulation in words used therein, but the substance of the matter in brackets is included in the stipulation. The statement made in brackets is for the purpose of clarifying a possible uncertainty as to a name, date, time, or exhibit number, etc.

2. Unless the particular excerpt indicates to the contrary, the testimony quoted herein is the testimony of each of the 47 plaintiffs, *that is every plaintiff except Stanley Weir and James U. Carter.*

CROSS EXAMINATION OF PLAINTIFFS

C.T., 688:7-20.

With respect to my testimony on direct examination about signing the 1958 and the 1963 applications: When I said that I did not intend to waive any rights, I was referring to my right to require the union to live up to its duty of fair representation and my right not to be discharged in violation of the National Labor Relations Act or the collective bargaining contract. I admit that at no time did I ask anybody whether there was any claim that I was waiving any such right. I admit that I did not know about the duty of fair representation when I signed these documents. When I was signing them, I did not think of the National Labor Relations Act and did not know anything about the provisions in the collective bargaining contract. I admit that I did not ask anyone whether I would waive any such right by signing my B or my B to A application. This subject was never discussed, and in fact most plaintiffs testify: I gave no thought to the question of my intent in signing either application until I was prepared for my testimony at this trial.

C.T., 690:2-31.

What I heard and saw at these meetings (and read in papers that were made available at these meetings) provided me and the other B longshoremen with information with respect to the terms and conditions applicable to our jobs as B longshoremen. I obtained other information from Local 10 Bulletins that were distributed or made known to me and through conversations with other longshoremen. I and the other B longshoremen were given information by union officials as to rules governing the conduct of the B men in our jobs as B longshoremen. These related to our conduct in the dispatching hall and on the job.

I remember that on at least one occasion, and there may have been more but I do not recall, we B longshoremen received warnings that both the union and the employers were checking our conduct at the hall and on the job, and that both were keeping records on this general subject matter. I remember hearing such warnings from a number of the union officials during the B men's meetings. I also may have heard such warnings from union officials from time to time outside of the B men's meetings, but I cannot remember. I recall that on at least one occasion Harry Bridges talked to us about our conduct. His warnings were strong and blunt. I remember that he made some statements that black marks were being put down, doing so after he had talked for many minutes when he said that some of the B longshoremen were engaging in improper conduct and that we should stop it. Some of the plaintiffs recall that Bridges was referring to conflicts between B men and A men and dispatchers and that the B men were told they should do what the A men and dispatchers told them to do. Some of us recall we were told that violations of the rules would be considered when the question of promotion to Class A seniority status was under consideration. I remember that the phrase "You should keep your nose clean" was used on one occasion by Bridges when talking to the B men. I do not deny that it may have been said by others, but I do not remember. I was aware that Class B longshoremen were subject to stricter rules than the Class A longshoremen and that they could be subjected to more stringent penalties than the Class A longshoremen.

C.T., 691:1-2.

I acknowledge that I and all other B men had to keep an absolutely clean record.

C.T., 691:22-24.

I was told and knew that I was required to maintain good conduct while on the payroll on the job and that I was required to maintain good conduct at the dispatching hall.

C.T., 691:29-629:2.

I recall that I learned that I was responsible for being on the master dispatch sheet (for every day that I was available for work) at the correct number of hours, that I was responsible for being signed-in on the sign-in sheet at my correct hours, and that I was responsible for any errors in signing-in or in taking a job at less than my correct hours, whether I signed-in for myself or someone else signed-in my work number for me.

C.T., 697:2-7.

No one of the plaintiffs can give any testimony, other than that given by Frank Nereu based on his time book entries, as to any specifics as to any incident when he was told to "go out on your correct hours" or "come up on your correct hours" (or the substance thereof) on any day when he was on the master dispatch sheet at hours other than the hours figure at which he or his designee had signed him in.

C.T., 697:15-21.

Except for F. Nereu, each of the other plaintiffs who had any LMO charges against him testifies: I make no claim to having any knowledge or information that any charge that I dropped LMO hours, whether or not resulting in deregistration, was in any way related to or caused by the practices described by plaintiffs as occurring at the dispatcher's window or the complaint window or that it was in any way attributable to the actions or omissions of any of the dispatchers.

C.T., 698:18-28.

From what I observed, I do not claim that there were more than one or two occasions in any week, for the whole group of from 750 B men [in 1959] to 550 B men [in February, 1962], in which a B man was dispatched in any manner different than on the basis of the notation on the master sheet of the work number within an LMO hours grouping which was placed on the master dispatch sheet by the dispatcher according to what was set forth on the sign-in sheets or according to a request for a correction of the place of the work number on the master dispatch sheet. I do not deny that on some days some B men's work numbers were on the master dispatch sheet at the wrong LMO hour figure and the B man involved did not take any action to get a correction made.

C.T., 700:1-701:6.

[A]s to LMO and pro-rata, I was shown the minutes of the meetings of the B men during the period 1959 through 1963 that are in evidence, Exhibits GB, N, GC, GD, GE, GF, EG, GH, S and GR. These minutes show that from time to time we were addressed by various officials and spokesmen for the union, such as Harry Bridges, Bill Chester, Frank Stout, Bob Rohatch, Harold Yanow, Bill McGee, Tommie Silas, Albert James, Martin Callaghan, Reino Erkkila, Mike Samaduroff, Dave Littleton, and others. According to these minutes it is reported that we were told on these various occasions that the union expected strict observance of all rules by us, that the need for us to live up to the rules was stressed, that we were warned against pilfering and that certain rule violations would mean we would be removed from the industry, that we were encouraged to ask questions at any time concerning matters we might not understand and be clear about, that only such things as sickness and injury would exempt us from paying our pro-rata share, that we should keep careful records of our hours and sign-in so that there would be

less chance of any mistakes occurring, that men were being de-registered for not making themselves available, that we were being watched about unwarranted claims of no passes to avoid working at the Army base, that there were some misfits among the B men, that a record was being kept on each of us, that we were expected to do the right thing for the benefit of all of the B men, that some of us were apparently being instructed in how to chisel by some of the A men and that the union was deeply concerned about how the hiring hall was operating and matters of that kind, that it was necessary that each "B" man "keep his nose clean", that the "bulk of the membership went through the same similar apprenticeship before becoming 'A' members", that the "B" men who deserved to be moved to "A" would be promoted, that various infractions would count against "B" men, and that black marks were being recorded. Specifically, I have read the language in the minutes of the B men's meeting of February 9, 1962, that reports on what Harry Bridges said, in the following language:

> "He also stated that the Union has some gripes against the 'B' men. Some 'B' men are making like 'A' men already. Some are going to be dropped to the bottom of the list. He informed the 'B' men that the bulk of the membership went through the same similar apprenticeship before becoming 'A' members. Also stated that no 'B' men will get to first base by suing the Union. No one has succeeded in getting registered through the court of law. 'B' men with too many complaints against them will not be registered 'A' men."

C.T., 705:1-6.

Plaintiffs recall hearing the statement "keep your nose clean" and the statement "black marks are being put down" related to their employment. Some plaintiffs testify: It is my impression that the emphasis of these warnings was directed toward on-the-job conduct. Others testify: I retain the impression that we were to obey all the rules without distinguishing between such rules.

C.T., 705:12-20.

By about six months after I became a B man, I had learned that the JPLRC had the power to decide whether I would keep or lose my job as a longshoreman. In regard to my direct testimony as to the effect of LMO violations: At no time did any representative of Local 10, of the ILWU International, of PMA, or of the JPLRC make any statement to me, or to any group of the B longshoremen including me, that violations of the LMO rules would not be considered by the JPLRC in determining whether or not I would keep my job as a B longshoreman or would promote to a job as a Class A longshoreman.

C.T., 705:25-32.

I recall no statement in which anyone told me - prior to August 1, 1963 - that I did not need to worry about any possibility that LMO violations would keep me from holding on to my job as a Class B longshoreman (or promoting to Class A) unless I violated the LMO rules a third time and after I had been given (first) a 30-day suspension and (second) a 60-day suspension. for LMO violations or late payment of pro-rata or any employer complaint (except one for pilferage) when the time might come for the JPLRC to consider my record as a Class B longshoreman.

C.T., 706:11-17.

Some of the plaintiffs testify: I also learned that other B men who had received such notices of deregistrations had decided to file such grievances, that they did so, and that they appeared at hearings of the Joint Port Labor Relations Committee. Some of the plaintiffs testify: I learned that some of the men who appeared were deregistered, that some were returned to registered status on probation, and that others were returned to registered status without probation.

C.T., 706:21-707:3.

I knew that I was to obey all applicable working rules and other provisions of the collective bargaining contract and that I was otherwise required to maintain good conduct on the job. I knew that it was misconduct on the job if I were to participate in a refusal to work as directed, a refusal to take orders, a leaving of the job without authorization, the creating of any disturbance, fighting, or assault. I learned that it was misconduct to show a general improper attitude, including arriving late on the job or leaving the job early. I knew that misconduct also included pilferage, smoking on the job in unauthorized places, horseplay, intoxication or failure to show on the job or failure to replace myself through the proper procedures under the dispatching rules. I knew it was misconduct to chisel on LMO hours so as to take a job while on the board at lower hours than were correct. These matters were well known on the waterfront. I did not think it made any difference if I engaged in misconduct unless I was accused of it and found guilty right away by the JPLRC.

C.T., 707:20-24.

No one told me that the JPLRC would disregard my late payments of pro-rata as part of my record as an employe in my job as a B longshoreman when the JPLRC would determine whether I would hold my job as a B longshoreman or would be promoted to Class A. I remember that I knew that the JPLRC had a broad power to deregister men.

C.T. 708:12-23.

During 1960, I learned that some Class B longshoremen were interviewed by the Investigating Committee of Local 10 during the winter or spring of 1960 regarding a proposal that some B men be promoted from jobs as B longshoremen to jobs as fully registered (Class A) longshoremen. I do not recall whether I

was at the meetings of Local 10 when these matters were under discussion, but I was free to attend the Local 10 meetings at that time. I have seen Exhibits DS and LD. I know of no facts to contradict the statement in the minutes of the Local 10 meeting of February 15, 1960 (Exhibit LD) reporting that Local 10 had adopted the policy of processing "all 'B' men into 'A' registration list taking men in the order of their registration with the exception of those whose action as 'B' men merits deregistration, and those who merit being put lower on the list".

C.T., 709:1-3.

Most of the plaintiffs remember that some time during the summer or fall of 1962 we learned that it was expected that the freeze on promoting B men would soon be lifted.

C.T., 710:3-5; 710:22-26; 711:15-18; 711:32-712:3.

I (except for Nisby and Straughter) filed my application to promote from Class B to Class A on the form that is marked Exhibit H. The form I signed included the following matter:

* * *

> "If my registration is accepted, my employment will be governed by such contract and rules now in effect or hereafter to be agreed upon or adopted by these parties or any Labor Relations Committee."

* * *

> "Any complaints I may have regarding my application for full (Class 'A') registration, my registration, or my employment (including all discrimination complaints) will be handled under the grievance procedure set forth in the contract."

* * *

Most of the plaintiffs testify: I do not recall whether I read this language. Some plaintiffs testify: I probably read it. All

plaintiffs testify: I have no recollection that I gave any thought to any of this language while I was filling out my application.

C.T., 712:27, 713:3-10.

Many of the plaintiffs . . . learned [during the spring of 1963] that we could speak to the record checker, who was Asher Harer, about our being promoted to Class A longshoremen. Many of us did have conferences with Asher Harer as shown by Harer's records, which are Exhibits 457 through 497, inclusive. Most of the plaintiffs state that we knew we could speak to members of the B list committee, such as Tommie Silas, and that we could speak to members of the Investigating Committee, such as Odell Franklin, with respect to this general subject matter of promoting to A and becoming a union member.

C.T., 713:11-21.

At the trial I was shown Exhibit BM, which is a Local 10 Bulletin of May 31, 1963, and I have read (or there was read to me) the language:

> "'*B' MEN STATUS.* The meeting of June 6th will clear up much of the real and imagined confusion regarding the 'B' men. As is known some 380 were initiated into the union at the previous meeting but their promotion to 'A' registration was held up pending the completion of the re-checking of a number of men. The re-checking was required to make sure no mistakes were being made."

At trial, I have looked at the minutes of the June 6, 1963 meeting (Exhibit AD). I do not recall if I attended that meeting of Local 10, although I was free to attend if I saw fit.

C.T., 715:4-7.

I have seen the notes prepared by Mr. Edwards with respect to my hearing (the exhibit within Exhibits JI to LC that relates to me). What these notes state appears to be substantially correct.

C.T., 715:31-32.

I (except for Nisby, Straughter, Lacy, Cafeterio, Reed and Hughes) did in fact sign and send in a grievance in the form of Exhibit 13.

C.T., 717:31-718:14.

I have also had my attention called to a letter written by Stanley Weir dated July 27, 1963, as copied in whole or in part in the Unemployment Insurance transcript, Exhibit 10-12, p. 60, which reads:

> "You recall that our first meeting last Thursday night we decided to send the Joint Labor Relations Committee another appeal based upon the Discrimination Section 13 of the Master Contract."

While I do not have any clear recollection as to what occurred at that meeting or as to this letter, I do not deny that Stanley Weir was correct in the testimony before the Unemployment Insurance proceedings in which he stated that he had sent out this letter and that it correctly set forth what those members of the Longshore Jobs Defense Committee who attended that meeting had decided at the meeting on Thursday, July 25, 1963. While I am unable to recall, I am unable to deny that we decided that we should assert claims under ¶ 13. I simply do not remember. I did in fact go along with the decisions made at that meeting.

C.T., 718:16-19.

A few of us had heard that a member of the Labor Board (I think a former employee of PMA) was friendly to PMA. and

some of us believed that we could expect to get an adverse decision from the Labor Board because of this fact.

C.T., 719:2-5.

We plaintiffs discussed, in our early LJDC committee meetings, the matter of going to court or to the NLRB. We did not discuss using the grievance machinery at any time from shortly after we sent the JPLRC the letter of July 27, 1963 (in the form of Exhibit 13) until May, 1964.

C.T., 719:19-26.

From and after no later than September 3, 1963, we had retained Mr. Gordon and from that date on we had the full benefit of his advice as to which forum to take our case. I can recall no communication regarding whether or not we should use the grievance machinery or any discussions of this among the LJDC longshoremen members from shortly after the time we sent in our July 27, 1963 letter (Exhibit 13) until we received Exhibit HB from the JPLRC or Exhibit LS, second page, from Sidney Gordon in May, 1964.

C.T., 720:1-6.

Neither I nor the plaintiffs as a group nor their representatives had any discussion with the Local 10 representatives, after the JPLRC meeting of July 22, 1963, to see if there was any way we could get Local 10 to work jointly with us in going through the grievance machinery, either by taking the issues directly to the Joint Coast Labor Relations Committee or through some other method of procedure.

C.T., 720:9-11.

Some plaintiffs testify: I learned that a telegram was sent to Local 10 in the middle of August. I identify it as Exhibit CV. We did not expect a response.

C.T., 722:4-26.

I have no recollection at this time, one way or the other, as to whether or not we learned that on July 28, 1964 Judge Wollenberg refused our request for an order to enjoin the grievance-arbitration proceedings or that in open court before Judge Wollenberg on June 2, 1964, the lawyers for the ILWU and the lawyer for the PMA had stated that we could have our own lawyers represent us in the grievance-arbitration proceedings.

Counsel for a defendant read from the proceedings before Judge Wollenberg on June 2, 1964. Each plaintiff thereafter testified: The first time I learned that Judge Wollenberg said anything in June, 1964, concerning our participation or nonparticipation in the grievance-arbitration proceedings and its possible effect on our case was either in Court in 1974 or when I was on the witness stand giving this testimony.

We cannot remember if, after that hearing, we received any information as to the terms of any "further order of the court" referred to in the second page of Exhibit LS. I did not ask anyone about such an order. Later, Mr. Gordon sent us information that we should not participate in the other grievance steps and should not attend the Joint Coast Labor Relations Committee meeting in November, 1964.

We again discussed this subject of using the grievance-arbitration procedure after we received the decision of the Joint Coast Labor Relations Committee of December 18, 1964. We did not go to the arbitrator. We pursued our case in court. We had already made that decision at least by May of 1964.

C.T., 724:1-3.

At no time did we give any consideration to how much it would cost for us to have a lawyer handle our case before the Coast Arbitrator as compared with the cost of having the lawyer handle our case in the courts.

C.T., 724:11-25.

As far as I was concerned I decided, since we had gotten together in the Longshore Jobs Defense Committee and since we had a lawyer, that I would do what the lawyer told me to do and that this was the only thing that was of any real importance that I remember about this.

After we retained Sidney Gordon, we had some further discussions about how we should proceed in court and other matters relating to the loss of our jobs. I cannot recall where or when all of these occurred. I remember that they were frequent. At the time of filing the complaint that Sidney Gordon filed, I knew that Stanley Weir was dealing with Sidney Gordon on our behalf. Before I came on the witness stand, I took no steps to read the complaint or any amended complaint filed by Sidney Gordon, except that plaintiff Gums read the Third Amended Complaint shortly after it was filed. In fact, I did not read any of Sidney Gordon's complaints, because I assumed Stanley Weir was acting on my behalf in dealing with the lawyer; I cannot understand the original complaint but I object to the allegation that there was racial discrimination because I knew there was none.

C.T., 725:8-29.

At the trial there has been shown to me the 1958 rules as to registration and deregistration (Exhibit 2). These were shown to me as a document referred to in the complaint that was originally filed in 1964 and that was attached to the fourth amended complaint, which was dated in May, 1965. I have read or there has been read to me the language in § 7(a) and (b) of these rules (on pages 4 and 5 of Exhibit 2):

> "(a) Addition to the registered list (Class A) shall be made solely on the basis of applications from the limited registration list (Class B). The men at the top of the limited registration list shall be given, in sequence, first opportunity to apply for full registration.

"(b) Additions shall be made after notice, in the number and at the time fixed by the Joint Labor Relations Committee. Each application shall be reviewed on the basis of the standards set forth in § 6 above, with consideration of ability, efficiency, experience, regular availability and other relevant factors. A longshoreman on the limited registration list (Class B) will not be eligible to promote to the registration list (Class A) unless he becomes entitled to Benefits B under the Welfare Plan and the comprehensive physical examination available to him as one of said benefits shows that his physical condition is such that he is fully able to do all types of longshore work."

C.T., 726:3-19.

I did not then [when answering my interrogatories] give any particular attention to the language that the JPLRC would review my B to A application "with consideration of ability, efficiency, experience, regular availability, and other relevant factors" although I knew that these factors would be considered in any employment relationship.

At the trial there has been shown to me Exhibit CF, the letter sent to me under date of July 31, 1959 in which language from the 1958 Rules as to Registration and Deregistration is quoted. My attention was called to the language in Exhibit CF that reads:

"9. *De-registration of limited Registration (Class B)* Longshoremen.

"(a) A Class B longshoreman may be de-registered in accordance with the provisions of Section 16(f) of the Basic Longshore Agreement and, in addition, he may be de-registered for cause by the Joint Labor Relations Committee (in accordance with such rules or uniform procedures as may be established or followed by such Committee) . . ."

C.T., 727:7-10.

I do not deny receiving a copy of this letter. However, I have given no particular consideration to it since the day I received it.

I am not sure that I read it, although I generally read the material I received in the mail.

C.T., 727:31-728:1.

I did not pay any particular attention to the provisions dealing with discrimination in Exhibit 2. I never thought about the fact that the 1958 rules included any language about discrimination for union membership, etc.

C.T., 728:17-28.

While I was on the witness stand, I read—or there was read to me—the language in the JPLRC minutes of June 17, 1959 stating that misconduct could lead to discipline, which is described:

> "Severe disciplinary action, depending on severity of offense and number of previous offenses, by the Labor Relations Committee. Such action to count against the individual when consideration is given to promotion to Class 'A' registration."

I have, at the trial, seen that the document from which this is quoted is Exhibit 89 and that these minutes are included in Exhibit N along with the LMO rules of December, 1958 or May 27, 1959. I did receive a copy of Exhibit N. I do not deny that a copy of Exhibit CF was sent to me at my last known address in July of 1959.

C.T., 729:2-9.

I have no recollection that this language quoted from the June 17, 1959 minutes was in my mind from shortly after it was sent to me or was picked up by me at the dispatching hall, whichever was later, until I testified in this case. I do not know if I ever read this prior to the trial, but I probably did when I received it. I did not remember it before, or when, I was shown it at the trial. I have given it no consideration at all, or from the time I first read it (if I read it at all before I saw it at the trial); how-

ever I knew that my record as a longshoreman would be considered by the JPLRC.

C.T., 731:29-34.

Until this cross-examination, I did not notice that this language reproduced on p. 58 above [C.T., 730] had in it the dates of December 30, 1958 and May 27, 1959 or that Exhibit 89 and Exhibit CF had later dates. In following the procedures at the hall for getting dispatched to the job, I did not reach any decision or take any action on the basis of my knowledge as to the language that is in item 17.

C.T., 732:6-16.

As far as I know, neither the JPLRC, Local 10, the ILWU or the PMA did anything to carry on the weekly checks referred to in this language with respect to the B longshoremen although I knew there were checks from time to time of the A longshoremen as to LMO violations. I did not think that this meant that B men could drop LMO hours. I knew that dropping LMO hours was against the JPLRC rules. No one representing the ILWU or Local 10 or the PMA ever told me either that I could pay my pro-rata late without its adversely affecting my opportunity to advance to A or to remain as a B man or that I could drop hours without its in any way adversely affecting my possibility of advancing from B to A or remaining as a B man.

C.T., 733:18-22, 26-28, 31-32.

I have no recollection that my conduct was guided by any written rule on this subject during the period from January 1, 1962 (including the period for which I was checked for LMO violations) until I discussed this subject with others after we received the letter dated June 17, 1963 (Exhibit CZ, etc.) . . . . I didn't consider whether the penalties were in a written rule or

an unwritten rule. I knew there was such a rule and I expected to be penalized under it if I dropped hours.

* * *

I assumed that there were checks and I would be caught if I dropped hours.

C.T., 734:23-28.

I knew that a B man was violating the rules if he dropped LMO hours. I knew we were subject to stricter rules than the A men and to more stringent penalties than the A men. I did not know, and no one told me, that the "stricter rules" or "more stringent penalties" applied to LMO violations. It was my understanding that these applied only to such contract or rules violations as intoxication, pilferage and availability.

C.T., 735:7-16.

For the second time while I was on the witness stand I read, or there was read to me, the language in the JPLRC minutes of June 17, 1959 stating that misconduct in the dispatching hall would count against a B man when his promotion to Class A was under consideration. I deny that dropping LMO hours or chiseling on LMO was "misconduct in the hall" because there were special LMO rules for dropping hours. I know that LMO violations were misconduct. I know that chiseling was misconduct. I know that the actions that a longshoreman does in participating in the LMO procedures all take place in the dispatching hall. I admit the only place where chiseling or LMO violations can occur is in the hall.

C.T., 735:19-30.

My attention has been further called to the language in Exhibit DC, of early 1959, which I do not deny is the letter that was sent

out to notify me to come in for an interview. I had my attention called particularly to the following:

> "Failure . . . to abide by other provisions in the contract, working rules or determinations of the Joint Labor Relations Committee can be cause for suspension or loss of registration."

I knew that a finding by the JPLRC that a man had been intoxicated on the job, had refused to work as directed, had gotten into an argument with a supervisor, or had pilfered was a finding that the man had failed "to abide by provisions in the contract, working rules or determinations of the Joint Labor Relations Committee".

C.T., 736:27-737:9.

The rule that a longshoreman should not drop LMO hours was not new in 1963, and I knew about it from about the first day I went to the longshore dispatching hall. The rule that a longshoreman should pay his pro-rata share on a certain day each month was not new in 1963, and I knew about it from the first day I went to the longshore dispatching hall. The rule that a longshoreman had to be available for work 70% of the time was not new in 1963. It was known to me by the time I had worked on the waterfront a short time. I knew that it was misconduct to engage in any of the behavior described in this paragraph whether there was a precise rule, or not, as to these special types of behavior.

I did know that the B men did not have the job security that A men had. I knew the rules were stricter as to B men. I knew the penalties on B men were stiffer. I did not like being treated as a second class citizen because I was a B man.

C.T., 738:4-27.

While I was on the witness stand I read, or there was read to me, the 1960 motion of Seldon Osborne on B men, as reported

in the minutes of the Executive Board of Local 10 held on January 14, 1960 [Exhibit DS]. This motion reads:

> "[Osborne] THAT WE PROCESS ALL 'B' MEN INTO 'A' REGISTRATION LIST TAKING MEN IN THE ORDER OF THEIR REGISTRATION WITH THE EXCEPTION OF THOSE WHOSE ACTION AS 'B' MEN MERITS DEREGISTRATION, AND THOSE WHO MERIT BEING PUT LOWER ON THE LIST."

While I was on the witness stand there was read to me the following language from the minutes of the Executive Board meeting held on January 28, 1960 [Exhibit MC] reading:

> "SUB-COMMITTEE REPORT: Brother Frank Stout gave a detailed report of the Sub-Committee which was selected to make recommendations regarding the promotion of 'B' men to full membership and registration. He quoted the Minutes of the Meeting they had and stated that this would give added protection to the Union as well as set an orderly procedure for promoting the 'B' men.
>
> "Brother Hogan of the Sub-Committee pointed out the need to use the provisions of the Coast Committee's MEMORANDUM OF RULES COVERING REGISTRATION AND DEREGISTRATION OF LONGSHOREMEN IN THE LOS ANGELES-LONG BEACH HARBORS,

C.T., 740:21-24-741:5-6, 12-13.

Plaintiffs Herman Crawford, George R. Williams, William Jones, Eathen Gums, Walter L. Robinson, Timothy Carter, Louis T. Lacy, E. Graves, L. J. Provost, R. W. Fleeton, Robert E. Birks, Anthony Melvin, and Oliver Geeter testify:

I did learn that the processing of "B" men was stopped by the "freeze on registration" [in 1960] . . . . After the meeting, I never asked anyone at any time about what had happened.

C.T., 741:20-21, 28-30.

Plaintiffs other than those named in the preceding paragraph testify: . . . I do not recall that I made any inquiry with respect

to whether the B man's LMO record was being considered in determining whether he could advance to A registration at that time (1960).

C.T., 744:7-32.

Nearly all the B men testify: I criticized the freeze on promotion because I thought it was unfair to make us stay as B men. I felt I had spent enough time in B and that I was able to do the work of a longshoreman as well as any of the A men. I did not like being in a second class situation. I did not care how long the B men might have remained as B men in other ports up and down the coast or the problems that the ILWU in general had in its efforts to get the PMA to agree as to how many B men would promote to A and in what port. I simply was fed up with the idea that I was going to have to continue to be a B man and be shoved around by the A men.

I believed it was unfair to give the A men the advantage of being able to choose and to not choose to do the heavier and more onerous work and that B men had little opportunity to do the skilled work, which paid more money. I had been a B man since 1959, and so I felt that I should have my share of the easy work. I thought there was a reason to give the easier work to the older men who had been there longer, in part because they had lived through the 1934 strike and the 1948 strike and had participated in the job action that had gotten better conditions on the West Coast waterfront. I did not think that they should get easier work simply because they had more seniority. Our complaint was not only that A men got the easier work but also because they got more work than we did in that they could work every day while we could sometimes get only one or two days' work each week. It was a combination of these two factors. I was satisfied that I was as good a longshoreman as anyone on the waterfront, and it was irritating that neither the PMA nor Local 10 would recognize

that this was the case. It was as much a burden to me as it was to the A men to have to do the heavier more arduous and onerous work on the waterfront.

C.T., 745:2-7.

This was unfair because under the M & M agreement all of the financial benefits went to the A men and at the same time the B men were required to do the heavier and more difficult work.

After giving this explanation, each plaintiff testified: This was the understanding I had when the M & M agreement was being discussed and ratified in 1959 and 1960.

C.T., 750:1-4.

His [Cleo Love's] attention was called to the fact that ¶¶ 17.4, 17.43 and 17.431 of the contract were quoted verbatim on the first page of Exhibit AF. He testifies: This does not refresh my recollection that I ever knew that I might not have to pay for the cost of a ¶ 13 arbitration.

REDIRECT EXAMINATION OF PLAINTIFFS

C.T., 751:8-14.

From the time I began my longshore employment, I assumed that I would be required to live up to the rules which had been provided to me and that I would be judged and penalized according to the provisions of those rules. When union officials told us at B men's meetings to obey the rules, I assumed that they were referring to the rules which were then in existence.

C.T., 752:6-8.

Once we filed our letters of July 27, 1963, Exhibit 13, we really never expected to hear anything further from the JPLRC.

C.T., 755:30-756:3, 11-12.

Those plaintiffs who did turn their time books over to Mr. Gordon in 1963 have not seen their books since that time (except for those plaintiffs who used their time books during the Unemployment Insurance Appeals Board proceedings in 1963-64) until the middle of 1973 when they were called to the office of their present attorney to answer interrogatories.

RE-CROSS EXAMINATION OF PLAINTIFFS

C.T., 759:16-18.

I believe and still believe that I would have a clean record even if I chiseled on LMO, until I was caught and penalized.

C.T., 760:18-27.

Those plaintiffs who were deregistered in whole or in part because of late payment of pro-rata testify further: With respect to whether or not there were new rules applied retroactively regarding payment of pro-rata, I admit that I now know and that I knew in 1963 and in 1964 and that I knew while I was working as a B longshoreman that I was required to make payment of my pro-rata by a specific date each month and was so required from the time I first became a B man. I further admit that I was given written notice prior to being registered that there would be a duty upon me to pay the pro-rata if I were registered and that I might be deregistered for nonpayment of my pro-rata.

C.T., 761:2-22.

Those plaintiffs who were deregistered in whole or in part because of dropping of LMO hours testify further: With respect to whether or not there were new rules applied retroactively regarding the dropping of LMO hours, I admit that I now know and that I knew in 1963 and in 1964 and that I knew while I

was working as a B longshoreman that there was a rule against dropping LMO hours, but I cannot find that rule any place in the written LMO rules given me, although I recall being told by union officials (and it was common knowledge among all longshoremen) that dropping hours was against the rules, and that there was a rule against taking a dispatch slip if my work number was not on the master dispatch sheet (Rule 3 of the LMO Rules) subject to certain exceptions, and I know and knew that these rules were in effect and binding upon me during the entire period of my registration as a B longshoreman. I further admit that I was given written notice by Exhibits N and CF no later than July, 1959, that misconduct in the dispatch hall could lead to severe disciplinary action depending on the severity of the offense and the number of previous offenses and that such misconduct would count against me when consideration would be given to my being promoted to Class "A" registration and that the dropping of LMO hours was by taking a dispatch slip in the dispatching hall while on the master dispatch sheet at an hours figure lower than my correct accumulated LMO hours as of the day in question.

C.T., 762:11-19.

With regard to my testimony that "I believed that I could rely upon everything that the union informed me . . . regarding my job", I testify: I do admit that I was told by the union that it "expects strict observance of all rules" and that repeated and frequent "violations of the rules will make it more difficult for a 'B' man to advance to the 'A' list", that I was from time to time admonished "keep your nose clean" by the union. I knew, as previously testified to on my cross-examination, that I should keep an absolutely clean record if possible, but I can not testify now that I was told that by the union.

C.T., 762:32-763:6.

I knew that there were certain penalties that could be imposed for failing to meet the rules and requirements referred to above in my re-cross examination. I knew that these could be imposed during the course of the day-to-day administration of the contract after a complaint was filed against me and I was brought before the JPLRC on the complaint. I believed that my previous conduct could not be the basis for any penalty against me when I was being considered for promotion . . .

C.T., 764:10-29.

Each plaintiff was referred to the LMO Rules, Exhibit DO, and asked to read Rule 3, which states:

> "No registered man shall be dispatched from the Hall unless he is first signed in on the proper 'sign-in' sheet."

Each plaintiff was asked to read Rule 17 of the same rules, which states:

> " 'Checks' will be made each week and violators will receive the following penalties:
>
> | | |
> |---|---|
> | First Offense | 30 days off |
> | Second Offense | 6 months off |
> | Third Offense | Cancellation of Registration. |

Each plaintiff testifies: Throughout the time I was registered as a B longshoreman, I believed that an infraction of this Rule 3 was not a violation of the LMO rules that could subject me to the penalties set forth on the third page of the LMO rules distributed to me in 1959. I believed that I could be dispatched if I was not first signed-in without risk of being penalized under Rule 17 of the LMO Rules distributed to me in 1959 or any other rule. I was at no time at any B men's meeting when I heard it said that a penalty could be imposed for a dispatch contrary to Rule 3. I was never told this by anyone. I think that everyone believed that no penalty would be imposed for Rule 3 infractions despite the language of Rule 17.

C.T., 765:2-5.

I cannot now recall if, during the period beginning a few months after I was registered in 1959 until the start of this trial, I had any recollection of the documents marked Exhibit CL (2 pages) or Exhibit CF (4 pages).

RHODY ADAMS
DIRECT EXAMINATION

C.T., 767:9-11.

. . . I was working as a day man but because work was slow and I was not receiving dispatches during the day, I took jobs as a volunteer at night.

CROSS EXAMINATION

C.T., 768:5-14.

I have seen the work sheet for December, 1962 covering my record, Exhibit 472. I note that I was signed-in at 468 hours and was dispatched at 468 hours and worked 18 hours and that I next signed-in at 482 hours and was dispatched at 482, which was average. I should have signed-in at 486 hours. I was charged with dropping four hours. I also note that this record shows that after I was dispatched at 482 hours I worked 8½ hours on the 12th and 22¼ hours on the 13th, 14th and 15th; nine hours on the 16th and 8¾ hours on the 17th for a total of 48½ hours and so should have signed-in at 530½ hours and instead signed-in at 517 hours on the 18th of December.

C.T., 769:7-14.

Asher Harer and I went over the work sheets that he had with respect to my LMO situation. We reviewed two weeks covered on a work sheet. He told me that he was satisfied that these showed that I had dropped 27½ or 28 hours in a two-week period. At this time I cannot recall what was said between me and Asher Harer. However, I believe that Asher Harer was

trying his best to help me and wanted to be certain that if there were any way in which the number of LMO hours that I was charged with dropping could be reduced he would help me do it.

C.T., 769:15-770:9.

At my hearing at Pier 24 I was told that I could go to the records office and get my work sheets gone over in detail. I did do this. I do not remember whether I had my time books at that time. We went over the work sheets in part, and the PMA representative at the records office said that these showed that I had dropped at least 18 hours. Under these circumstances we didn't go into the matter any further because first the Investigating Committee, then Asher Harer, and then the PMA and ILWU representatives at the records office found that I had dropped more than 10 hours. I do not deny that they found this dropping of hours to be true. I deny that I dropped any hours.

At one time when work was slow on the day board I took jobs as a volunteer at night. I cannot recall when this occurred. This does not in any way relate to the dropping of 18 hours that is indicated by the work sheet for December, 1962. I think that I told Asher Harer that I had taken jobs as a volunteer at night at some time. I think that I told Asher Harer that I took jobs as a volunteer at night. I think that he reviewed my questions as to the facts based upon my volunteering at night and that he nevertheless concluded that I had dropped more than 10 hours. At the Unemployment Insurance hearing I testified as follows:

> "Q. Were you in agreement with what the record showed when it added up to 18 hours? Was it right?
>
> "A. Yes.
>
> "Q. So then you didn't go any further?
>
> "A. No, we did not go any further. There wasn't any use." [9-34]

This is my testimony at this date.

ANTONIO S. CAFETEIRO

CROSS EXAMINATION

C.T., 773:26-32.

. . . We went over the work sheets that are in evidence as Exhibits 487 and MF, covering August and October, 1962. These sheets showed that my LMO record was perfect in these two months except for two flops. There was no claim by anyone that I had made any mistake in my LMO hours as to one of these flops. The only claim against me was that I had failed to take average on Monday, August 13, 1962, after I had flopped on the preceding day, Sunday.

C.T., 774:1-4.

I argued with the committee that I should not be charged with dropping hours for this flop because I thought it had been the practice to ignore flops on Sunday. Neither the union representative nor the PMA representative agreed with me.

C.T., 774:11-15.

. . . I do not know if there was any notice given that the dispatcher was going to flop men on that occasion. I do not remember whether I signed-in my number after my previous job or if I had my partner do it or if I called the hall and asked whoever answered the pay phone to sign me in.

C.T., 774:21-25.

. . . I remember reviewing this matter with the record checker and telling him that I had flopped on Sunday, August 12, 1962, and that I was signed-in the next day at the same hours and had not taken average, although I did not have to sign-in because I was carried over on Monday's sheet.

C.T., 775:3-4.

. . . This was checked out, and he found that there was an actual flop.

JOHNNY J. CHERRY

DIRECT EXAMINATION

C.T., 776:5-13.

At my hearing on July 12, 1963 before the JPLRC at Pier 24, I was told that I had paid my pro rata late twelve times and that I had dropped thirty hours in September 1962. I admit the late payments of pro rata. When checking my records at the records office after my appearance at Pier 24, I had my time book with me and there were inconsistencies between my time book and the worksheets of the committee. My time book did not show that I had dropped any hours. I do not have my time book at the present time.

CROSS EXAMINATION

C.T., 776:28-777:8.

When I went down to the records office I talked to Mr. Edwards, who I knew was from PMA, and one of the Local 10 men on the B list committee, I cannot recall who it was. I had my time book with me. I went over the work sheets that the committee had and the information in my time book. I cannot now recall what were the facts that were important that were shown by the entries in my time book. I do recall, however, that the two people from the committee got from me all of the information I had in my time books and that they made changes on their records. I do not deny that the committee representatives may have checked some of the factual material I presented by looking at some other documents or by telephone, but I do not remember. After we had finished going through all of these things, Mr. Edwards told me that I had dropped only two hours of LMO and that my record would be corrected in that respect.

C.T., 777:16-19.

. . . I do not deny that the facts are, as shown in the exhibits in court, that the final conclusion as to these matters was that I had been late in the payment of pro-rata on 13 occasions, an increase of one time over what I was told at Pier 24.

HERMAN CRAWFORD

CROSS EXAMINATION

C.T., 778:20-23.

I went down to the records office and went over my LMO record with a representative of the union and a representative of the employers. On review of the matter I found, and it was determined, that I had dropped 7 hours of LMO.

C.T., 778:25-27.

On the pro-rata I am not sure whether I actually was late in paying 9 times or 10 times, but I admit that I was late in paying it at least 8 times.

ROGER W. FLEETON

DIRECT EXAMINATION

C.T., 781:7-9.

. . . I was charged with flopping on a Sunday in April 1962 and dropping five hours and flopping on a Sunday in August, 1962 and dropping eleven hours.

CROSS EXAMINATION

C.T., 781:27-782:3.

I mentioned the matter of flopping on Sunday while I was at Pier 24 because I had previously spoken with someone in the records office about my record on LMO. We had some discussions of flopping on Sunday. My conversation could have been with Asher Harer, but I do not recall. I saw a list posted of men who had passed and my name was not on this list. I went to check on my LMO records. At this time I cannot recall whether I met with Asher Harer or met with someone else at the records office. I do not deny that I spoke with Asher Harer. I just do not recall the situation at this time.

C.T., 783:8-9.

. . . I do not recall having any detailed discussion with him other than on the Sunday flop matter.

C.T., 783:17-20.

. . . I do not recall having had a conversation with Mr. Edwards at the records office regarding my case, but if it is his testimony that he met me there and told me that I would be charged with the flop on Sunday I would not deny that he was correct.

C.T., 783:22-27.

. . . I recall that the basis for not flopping apparently was that there was not very much work on most Sundays. I do not recall whether or not the dispatchers sometimes posted notices or made announcements on the loudspeaker that they would flop the men on Sunday and (sometimes) that they would not flop the men on Sunday.

OLIVER GEETER

CROSS EXAMINATION

C.T., 784:19-22.

. . . I was told that I could go to the union dues office if I thought there was any mistake in the information that I was nine times late in my pro-rata. I did not do so because I knew that I had paid pro-rata late nine times.

FRANK GIANNINO

DIRECT EXAMINATION

C.T., 785:9-11.

. . . At the records office after my hearing at Pier 24, John Trupp of PMA reduced the hours of LMO violations to eleven.

CROSS EXAMINATION

C.T., 786:2-5.

I remember that I went to the records office, some time after I had been at the Investigating Committee, and spoke to a union record checker. I don't recall the man's name. He may have been Asher Harer, but I do not recall.

C.T., 786:17-19; 24-27.

At the trial I have seen Exhibit 473, which I was told was a work sheet used by Asher Harer in studying my LMO record and which shows that I dropped 23½ hours. . . . I know that Asher Harer was doing his best to help me to be sure that I was not charged with dropping any LMO hours unless I had failed to satisfy the rules in some respect.

C.T., 787:15-26.

. . . I also note that after I returned from the job I took on October 9th, I was signed-in at 101½ hours for the 11th and flopped that day and it further shows that I was not signed-in on the board again until the 18th when I was signed-in at 154 hours. The day after I flopped I should have signed-in at average, which was 120 hours. I worked 8 hours on the 12th, 8 hours on the 13th, 8½ hours on the 14th and 10 on the 15th and 12 on the 16th, for a total of 46½ hours. Adding these 46½ hours to 120, I should have signed-in at 166½ hours on the 18th instead of 154 which I did. I do not know whether I figured my hours by taking only six hours for my flop on the 11th which would have given me a total of 52½ hours to be added to 101½. I have no other explanation. Because of this failure to take average on the 12th. I was 12½ hours low when I took the job at 154 hours on October 18.

C.T., 788:5-10.

. . . It may be that John Trupp was one of the men who was at the records office when I was there and it is my recollection

that he said it was 11. He may have actually said it was 16. On the other hand he might have pointed out that I did drop 11 hours on one day and tell me that was in excess of 10 and therefore anything further was not significant. But it is my best recollection that Mr. Trupp told me I dropped 11 hours.

JAMES GREEN

DIRECT EXAMINATION

C.T., 789:5-7.

At my hearing on July 11, 1963, before the JPLRC at Pier 24, I was told that I had paid my pro rata late ten times. I admit paying late eight times.

CROSS EXAMINATION

C.T., 789:22-27.

At the hearing at Pier 24 I asserted that the record of my late payments was erroneous and that this was because the machine at the union was out of order so that the recordings of my pro-rata payments were put in the wrong column. I was told that I could go to the union dues office to go into these matters more fully and to get the correct facts established there. I decided not to do so.

MACK HEBERT

DIRECT EXAMINATION

C.T., 795:11-12.

. . . My time book, which I took with me and showed to them, showed that I did not drop any hours.

CROSS EXAMINATION

C.T., 796:23-25.

. . . I recall that at the end of the discussion it was agreed by the PMA and the Local 10 officials that I had dropped either 12 or 18 hours. I cannot now recall which figure was used.

C.T., 797:27-29.

Some time after I had been to the Investigating Committee meeting I heard that Asher Harer was reviewing records of B men on LMO and went into see him.

C.T., 789:3-10.

I remember that I did talk to Asher Harer about my LMO situation. I do not know now whether I had my time book or other records when I talked to Asher Harer. I do recall that he and I went over a work sheet. At the trial I have seen Exhibit 475. This looks like the sheet that we looked at. I recall that we talked about sign-in sheets and I was told that they were not available.

CONWAY T. HUDSON

DIRECT EXAMINATION

C.T., 799:8-10.

. . . After my hearing at Pier 24, I spoke to Mr. Edwards of PMA at the records office. He checked my records and reduced the hours dropped to nine.

CROSS EXAMINATION

C.T., 799:28-800:2.

. . . I do not now recall what the facts were that I was able to present to Mr. Edwards. However, he did listen to my statement as to the facts, and he reviewed them by consulting the documents that he had before him. He might have made a phone call to check up on some of the facts, but I do not recall. After our discussion, he said that I had dropped 9 hours in the month of October and that it was correct that I had dropped no hours in the month of September.

HENRY IMPERIAL

CROSS EXAMINATION

C.T., 801:24-802:13.

In 1964 I testified at the Unemployment Insurance proceeding. At the trial, my testimony was read, as follows:

"Q. Mr. Imperial, did I understand you to state you received a copy of the rules? [that were part of the 1958 rules, Exhibit 2 in the court proceeding]

"A. I did not receive all of the copies. I received a few pages of the rules.

"Q. You received a few pages of the rules. Ok. Now you have also seen the rules posted on the bulletin board down at the hall?

"A. Yes.

"Q. And any of the B men who cared to look could have seen then there on the bulletin board; wouldn't that be true?

"A. Yes.

"Q. Now you say Mr. Edwards is the one who told you about the late payment of your pro rata as being cause for deregistration?

"A. Yes.

"Q. Okay; now, you were late in the payment of your pro rata 13 separate and distinct times; isn't that right?

"A. Yes. I believe that is the amount of times."

This is my testimony here.

WILLIE JENKINS, JR.

CROSS EXAMINATION

C.T., 804:8-23.

I went to the records office, I think, July 19, 1963. I saw Mr. Edwards and Tommie Silas. We went over the work sheets that they had. It was my recollection that the facts that they presented when they were checked out by Mr. Silas or Mr. Edwards indicated that I had no more than one hour of LMO violations during the period that I was checked.

At the trial I was shown Exhibit MV, which consists of two union work sheet forms covering my record for the months of April and October, 1962. It was pointed out that the second sheet of Exhibit MV indicates that I was not signed-in on the board at any time during the month of October, 1962. I was told that the record showed that the work was very heavy during this period of time. During periods when work was very heavy and I knew that I could get a job whether or not I was signed-in on the board, I sometimes did not sign-in and went to the hall during the latter part of the dispatch period and would volunteer for work after all of the men who had signed-in had been dispatched. I cannot now recall whether this subject was discussed when I was at my hearing at Pier 24.

CHARLES J. JOHNSON

DIRECT EXAMINATION

C.T., 805:10-11.

. . . At the records office after my deregistration, I was told that my hours were all right by Carl Smith, an official of Local 10.

CROSS EXAMINATION

C.T., 806:2-8.

I recall that I went to the records office. I do not recall whether I had my time book with me at that time. I recall that the JPLRC officials reviewed some documents. I deny that I was shown any documents, either work sheets or master sheets. I do not recall what the officials told me when they had listened to my story and reviewed the documents they had. I do not deny that they said that my record still showed that I had dropped 14 LMO hours.

C.T., 806:24-28.

The conversation that I have been testifying about may be with respect to a conversation I had with Carl Smith earlier.

This might have been a day or so after my Investigating Committee appearance in February. I do not deny that my recollection as to my conversation with Carl Smith may be with respect to a period of February, 1963.

C.T., 807:9-10.

I remember that it was Carl Smith who told me of my situation at the time of the Investigating Committee meeting.

C.T., 807:21-28.

. . . On many days when I had not signed in, I went out on a volunteer basis when work was very heavy. I would come to the hall late on days when I knew ahead of time that the work was going to be so heavy that I did not need to sign-in to get dispatched. The second way was to go out after I had explained to the dispatcher that I was not on the board and he told me that I could "come up on my correct hours" or could "go out on my correct hours". I do not know how many times I went out in this second way. When I got my dispatch slip in this way, the dispatcher told me to sign-in at my correct hours for the next day.

JAMES WILLIE LANKFORD

DIRECT EXAMINATION

C.T., 812:9-10.

. . . On many occasions I was left off the master sheet and the dispatcher told me to go out on my hours.

CROSS EXAMINATION

C.T., 813:4-8.

At the trial I was shown the work sheet that was used to check my LMO violations, specifically the work sheets identified as Exhibits 469 and MZ(1) and (2). I have looked to see whether the notations on these sheets in any way relate to occasions when I was left off the master dispatch sheet and the dispatcher told me to go out on my hours. I cannot find that they do.

C.T., 813:12-29; 814:7-10, 15-17.

I have been shown Exhibit MZ(1), which shows that I was not on the board on Wednesday, April 18 or on Monday April 23 or on Tuesday April 24, 1962, and that I was not charged with dropping hours on any of those days. Exhibit MZ(2) shows that I was not on the board on Saturday May 5 or on Sunday May 6 or on Monday May 7 or on Tuesday May 8, and that I was not charged with dropping hours on any of those days. This exhibit further shows that I was not on the board on Friday May 18 or on Monday May 21 or on Tuesday May 22, and that I was not charged with dropping hours on any of those days. These are the only days when I was not shown as being on the "board", i.e. the master dispatch sheets.

Exhibit MZ shows that I was charged with dropping hours on other occasions when my work number was on the board. This exhibit shows:

> (1) I dropped 14 hours by not taking average on the 16th of April.
>
> (2) I dropped 11 hours on April 20, when I was signed-in and was dispatched at 570 hours on the day after I had been signed-in and had been dispatched at 573 hours and worked 8 hours.
>
> * * *
>
> (4) . . . I did add six hours in other similar situations. Thus, on Wednesday, May 16, 1962, after not being on the board for two days, I came in and signed-in by taking average.
>
> * * *

. . . The work sheet shows that the charges of dropping hours on these four days do not involve days on which I was not on the board. I have no evidence to contradict the work sheet.

JOHN T. LEGGETT

CROSS EXAMINATION

C.T., 817:10-22.

I cannot now recall how many times I was left off the master dispatch sheet or the reasons why this happened. I cannot recall if this ever happened during the months I was checked for LMO because I did not keep any records of when I was left off the master dispatch sheet. On some occasions that I was left off the sheet, I failed to get to the complaint window in time to get it entered. I do recall that there were incidents in which I was left off the master dispatch sheet and brought this to the attention of the dispatcher at the complaint window during the time that that window was open for service during the period I was checked for LMO violations. I recall that from time to time it did happen that I was left off the master dispatch sheet and that I took this up at the complaint window and got my work number entered at the right place but I do not recall the number of times or the dates.

C.T., 817:33-818:3.

. . . In all of the cases when the dispatching hall was cleaned out and I was dispatched without being on the master dispatch sheet, the dispatcher would tell me when giving me a dispatch slip, "Sign-in on your correct hours for tomorrow."

CLEO LOVE

CROSS EXAMINATION

C.T., 820:7-15.

While I was at the records office, I talked to Mr. Edwards or Mr. Trupp and somebody from Local 10. I do not deny that they had one or more work sheets there. I do not remember anything about my meeting at the records office, except that I met with someone and went over the facts and we reached the conclusion that I had dropped less than 10 LMO hours. I do not deny that the man there helped me to analyze the situation

and to gather the facts that would show that I had dropped less than 10 hours of LMO. I do not deny that we went over the work sheets or that I had my time book with me.

C.T., 820:20-23.

I remember that during May or perhaps April, or perhaps before, in 1963, I went into the records office to check in on my LMO situation. I cannot now recall why I decided to make this check. I cannot recall if I learned that Asher Harer was making a check on LMO.

PAUL MAY

[This plaintiff died prior to the trial.]

C.T., 823:30-32.

. . . The same Exhibit LL shows that none of these four meetings of the JPLRC was any mention made by Paul May or anyone else of any medication or sickle-cell anemia pain.

WILLIE C. MERRITT

CROSS EXAMINATION

C.T., 826:25-28.

There was no claim at any time that I had dropped any LMO hours. The record that they had checked for me showed that I had not dropped any hours of LMO. I understood the LMO rules and had no difficulty in complying with them so that I did not drop any hours.

DONALD NAU

DIRECT EXAMINATION

C.T., 828:10-13.

. . . I did not understand the requirement of taking average if hours were less than average. I thought that everyone who flopped was to just add six hours to their time.

CROSS EXAMINATION

C.T., 828:27-28; 829:2-14.

I do not now recall going over my record with Asher Harer. I understand he has testified that he reviewed my records. . . . I do have a recollection that I talked to somebody at the records office between the time I was before the Investigating Committee and the time that I received the letter notifying me that I was being deregistered.

I have reviewed, on the witness stand, the work sheet that I have been told that Asher Harer used. The work sheet showed that I flopped on August 4, on August 6, on August 10, on August 16, and on August 25, 1962. It also showed that I signed-in on average on August 8, 1962 after my flop on August 6 and that I failed to sign-in for August 7. I had been on the board at 281 when I flopped on August 6 and by taking average on August 8, I was at 295. On the other four occasions when I flopped I only took six hours instead of taking average. The sum of the difference between taking six hours or taking average on these four occasions adds up to 28 hours.

C.T., 829:15-25.

I cannot explain why I took average on the one occasion that I flopped and did not take average on the other occasions when I flopped, except that I possibly was confused between Rule 2 in the June 17, 1959 minutes of the JPLRC (attached to Exhibit N) and Rule 10 of the LMO rules (attached to Exhibit N). I do not claim that I read these rules at any time during August, 1962. I do not remember. I did not take average one day because I had read one rule and not fail to take average another day because I had read another rule. Actually I do not recall that I read anything in Exhibit N between a month or so after I first received it in 1959 and the time when I was deregistered in 1963.

MANUEL NEREU, JR.

CROSS EXAMINATION

C.T., 831:3-18.

Some time after that meeting, I heard that Asher Harer was checking on records as to LMO hours. I went in to see him at the JPLRC records office. He and I looked at some work sheets. At the trial I was shown Exhibit 474. This looks like the sheet I talked about with Asher Harer. It shows that I had signed-in and was put on the master dispatch sheet for October 30, 1962 at 256½ hours and that I worked 83 hours between that date and November 8, inclusive. He said that this meant that I had to sign-in at 339½ on November 9. I signed-in at 316 on that date, according to the master dispatch sheet. Thereafter, as I worked from day to day, I added my hours worked to the hours figure of 316, and I signed-in and was dispatched on the basis of this hours figure. I have no evidence that there is anything incorrect about the figures on the master dispatch sheets, the work sheets, or the PMA records from which the figures on the work sheet were transcribed, or that there was any error in transcribing them onto the work sheet. I do not know one way or the other but I have no records to suggest there is anything wrong with the figures relied upon by the JPLRC.

THOMAS NISBY

CROSS EXAMINATION

C.T., 832:12-29.

I did not file an application to promote from B to A. I did not file a request for a hearing, and so I did not have a hearing in the first part of July, 1963, along with the other B men. I did not file a grievance attacking my deregistration at any time. I learned that other B men who had been deregistered for reasons other than for lack of availability were bringing a lawsuit, and I joined in it.

As far as I know, I am the only plaintiff whose deregistration occurred only because he failed to meet the 70% availability rule. Some time before 1963 I had been given a notice that I had been deregistered for lack of availability. I filed a grievance attacking my deregistration and I had a hearing before the Joint Port Labor Relations Committee. At that time I was reinstated but was put on probation. I was sent a similar notice of deregistration for poor availability in the spring of 1963, and I appeared at a JPLRC hearing in April, 1963, in response to that notice, Exhibit CI.

I did not deny that I was not available for longshore work for a full period of 30 days and was not available for longshore work for 70% of the time over a longer period. The JPLRC rejected my request to be reinstated to registration. I did not file any further request for a hearing.

LEROY J. PROVOST

CROSS EXAMINATION

C.T., 834:1-5.

I cannot recall now whether I talked to Asher Harer or not, but I do disagree with his note that I did so. At the trial I have seen my work sheet prepared by Asher Harer. I note that I was charged with dropping 11 hours because of a failure to take average after not being on the board on Saturday, August 19 or Sunday, August 20.

C.T., 834:24-30.

I cannot explain now why it was that I did not go to the records office after I was told at Pier 24 that I could take my time books or any other material I had and meet with the joint representatives of Local 10 and PMA at the records office to see if there were any mistakes as to my LMO hours. I remember that I was told I could go to both places. I think I did not go because I knew I was shown to have dropped over 11 hours in any event.

EDWARD REED

[This plaintiff died prior to the trial.]

C.T., 836:2, 11-13.

Exhibit LK shows that his LMO violations were reduced from 13½ hours to eight hours when he was at the records office of the JPLRC about a week after the July 10 hearing.

JEREMIAH RICHARDS

CROSS EXAMINATION

C.T., 839:1-16.

. . . All that I know is that I asked that someone sign-in my work number for 141½ hours and square it off.

I cannot explain now my being signed-in at 141½ hours for the 16th, since I was not on the board for the 15th and I was not carried over automatically from the 15th to the 16th. Hence, either I, or someone whom I designated, must have signed me in at 141½ hours for the 16th, or I spoke to the dispatcher and he put me on the master dispatch sheet at 141½.

C.T., 840:17-19; 22-24.

[at Pier 24 on July 11, 1963]

. . . I did say at that time that I had not been able to check my hours. I said this even though I previously had spoken with Asher Harer at the records office many weeks earlier. . . . I do not deny that I spoke to Asher Harer, person to person, at the records office and went into these details then, but I do not remember doing so.

C.T., 841:3-7.

. . . As I now recall, I was then told by Messrs. Trupp and Silas that I dropped only 10½ hours of LMO because of the October incident. I do not recall exactly what happened. I do not deny that I might have been told that the charges that I had dropped hours were reduced to 20.

C.T., 841:13-14.

. . . The JPLRC found that I was dispatched to a bum job in April, 1962.

C.T., 841:15-16, 20-22, 27-31.

I remember that I was present at a B men's meeting in late 1962 or early 1963. . . . Several of the union officials spoke; I think I remember Chester, Rohatch, Kearny and Bridges as being among the people who spoke. . . . There was talk about the standards that would be used. It is my recollection that the conclusion I had with respect to this was that whatever rules were agreed to between the union and the PMA would be the rules that would determine who would be promoted and who would be deregistered.

C.T., 842:9-10.

I remember calling the union hall on one occasion and speaking with Asher Harer.

C.T., 842:24-27; 843:6-9.

I do not have an explanation as to the notations by Asher Harer and that he checked me for my October LMO record and found that I had dropped at least 13 hours in four weeks and had dropped more than 10 in each of two months. . . . I do not recall talking about 43½ hours with Asher Harer. The only explanation might be that my recollection that I talked to Tommie Silas about 43½ hours is wrong and that I actually talked to Asher Harer about 43½ hours. I cannot be certain at this time.

ALBERT ROBERTS

DIRECT EXAMINATION

C.T., 846:5-11.

At my hearing on July 11, 1963, before the JPLRC at Pier 24, I was told that I had paid my pro rata late twelve times and that

I had dropped thirteen and one-half hours in December 1962. I admit the late payment of pro rata. I have no explanation for the charge of dropping hours. I have my time book for December 1962, but it is not sufficiently definite to enable me to dispute the Committee's conclusions.

CROSS EXAMINATION

C.T., 846:29-847:3.

I do not recall exactly what happened at that time. I did have my time books with me, but they did not have any information in them that indicated that the information on the work sheets being used by the committee was wrong in any respect. There was a review of the arithmetic and the procedures. As a result, instead of reducing the number of hours that I was charged with dropping, the re-check showed that I had dropped 15½ hours.

C.T., 847:12-14.

I still have my time book and submitted it at the trial. It does not indicate anything to suggest that the conclusions by the JPLRC were wrong with respect to my LMO record.

WALTER L. ROBINSON

CROSS EXAMINATION

C.T., 848:20-22.

I do recall that I did not feel I had dropped that many hours and believed it was more like 20 hours. I was told that I could go to the records office to re-check this.

C.T., 849:24-27; 850:10-11.

I remember that I spoke to someone in the union office after my appearance at the Investigating Committee. He had some work sheets that looked like the sheet that is marked Exhibit 495,

which I have seen while on the witness stand here. . . . I do not know what period of time was considered by the union Investigating Committee or by Asher Harer or by the JPLRC.

ALFRED STRAUGHTER
CROSS EXAMINATION

C.T., 853:20-24.

I received a letter dated June 17, 1963 telling me I had been deregistered. I did not request a hearing, although I remember reading that I was entitled to get a hearing if I requested one. I did not have a JPLRC hearing in July and I did not file a grievance letter dated July 27, 1963, or any other grievance letter in July.

C.T., 853:27-30.

On April 23, 1963 I had been at another hearing before the Joint Port Labor Relations Committee. It related to availability. I was asked to submit some medical information to support my claim that my lack of availability could be excused. I failed to submit it.

C.T., 854:2-3.

. . . Nor do I recall at this time why I failed to submit the medical evidence that I said I would submit.

THEODORE TOLLIVER
CROSS EXAMINATION

C.T., 855:29-32.

On that date [July 19, 1963] I did go to the records office. I met with the representative of PMA and of the union. I think Mr. Edwards and Mr. Silas were there. I do not recall what occurred except as I testified on direct examination.

WILLIE J. WHITEHEAD

DIRECT EXAMINATION

C.T., 857:8-10.

. . . I have no recollection of dropping hours and I do not have my time books to compare with the worksheets of the Committee.

CROSS EXAMINATION

C.T., 857:21-24.

. . . The master dispatch sheets were shown to me and, when I asked to see the sign-in sheets, I was told they were not available. I do not recall if I looked at the work sheet regarding my LMO record.

C.T., 858:7-14.

I do not deny the accuracy of the report, shown in Exhibit LF, that indicates that the PMA and the Local 10 representatives still agreed, after my appearance at the records office, that I had 23½ hours of LMO violations. I make no claim that this conclusion is contrary to the facts that they were studying when we went over them at the records office on Wednesday, July 18, 1963. I do not deny that an LMO work sheet was presented to me at the records office. I make no claim that I was able to show at that time that there was anything erroneous on the work sheet.

C.T., 859:2-5.

. . . I do know now and I knew in 1963 that if I had either flopped or not been on the board on April 14th, I was required to take the average when I next signed-in unless I was then above average, in which situation I would have added six hours.

GEORGE R. WILLIAMS

CROSS EXAMINATION

C.T., 860:23-24.

I still remember that when I was at Pier 24 I raised a question about the sign-in sheets and that I was told that they were not available.

C.T., 861:3-4.

I do recall that I did go to see a record checker in the records office. I do not know his name.

C.T., 861:14-862:22.

I do not now recall what was said when I talked to Asher Harer. An attorney for a defendant read from the Harer work sheet (Exhibit 497) that he charged me with dropping six hours because I flopped on July 31 and signed-in at the same hours figure on both July 31 and August 1 and did not add six hours between July 31 and August 1 for the flop. I make no claim that I didn't flop or that I did add six hours. I do not remember. I have no records of my own.

Exhibit 497 also shows that Harer charged me with dropping 4½ hours on the 2nd of August on the basis that I had signed-in at 248½ hours on the 1st of August and was dispatched at 248½ and worked 8¾ hours on that day and only added 4½ hours. I make no claim that I didn't work the 8¾ hours shown. I do not remember. I was further shown by an attorney for the defendants that Asher Harer said I dropped 1¾ hours on the 3rd of August because I worked 9¾ hours on the 2nd of August after signing-in and being dispatched at 253 hours and thereafter signed-in and was dispatched at 261 hours on the 3rd of August. I also was shown that this record shows that on the 7th of August I signed-in at 285 hours on the day that the average was 287 and that I was required to take average on that date. I do not now deny the accuracy of the figures shown on these work sheets or the analysis of them prepared by Asher Harer because I have no records of my own to compare with the worksheets.

I know that it was my responsibility to be on the master dispatch sheet at the correct hours. I do not deny that I was on the master dispatch sheets at the hours shown on Exhibit 497. I cannot deny or admit that I was signed-in on these hours because I do not know. I do not have my time books and the defendants do not have the sign-in sheets.

I do not recall telling the committee at pier 24 on July 10, 1963 that I was always at the hall at 6:00 a.m. in the morning, as is indicated on Exhibit JJ. However, I was usually at the hall at 6:00 or at least before 6:30. It is my recollection that I usually checked the day's master dispatch sheet at this time to see whether it showed my work number at my proper LMO hours figure. I knew that between 6:00 and 6:30 a.m. I could go to the complaint window and get my work number placed in the group of work numbers at my proper LMO hours figure whatever might be the hours figure at which my work number was put on the day's master dispatch sheet when it was first made up. I knew this was true whether my work number was in the wrong place because of my mistake or because of the mistake of somebody who was at the hall who put my name and number on the sign-in sheets on the basis of a telephone call by me or because of a mistake of a partner or friends in signing me in or because I signed myself in at the wrong hours. I knew I could get the correction made.

C.T., 863:26-28.

. . . I cannot now explain why my hours were not increased from day to day on the basis of the number of hours that I worked and giving consideration to my flop.

INTERROGATORIES

C.T., 879:1-10.

Interrogatory No. 88: In his affidavit Stanley Weir stated with regard to the agreement between ILWU and PMA from June 15, 1959 to June 15, 1960: "I was outspoken in my opposition to this agreement because of its immediately injurious effects on the working conditions of the Class 'B' men." State each and every material fact of which you are aware that would tend to establish that the contract had any such effect.

Answers: Each of the 44 plaintiffs who answered the interrogatories answered, "The B men would do the heavier work

without the protective work rules which earlier applied, while the benefits went to the older men, all of whom had Class A registration."

C.T., 895:1-32.

Interrogatory No. 169: Do you recall receiving any information as to the availability of the § 13 grievance procedure? What information do you recall receiving? In what form?

Answers:

A. Winters	Yes. In the form of letters from the Joint Port Labor Relations Committee.
P. Fountaine	Yes. I remember receiving or seeing a written document of some kind concerning Section 13.
J. Green	I recall hearing about Section 13 at a union meeting but I do not recall the details.
W. Jenkins	Yes. In various documents provided to me.
R. Fleeton	Yes. In written documents of some kind.
L. Lacy	I recall hearing about Section 13 but I cannot recall when I learned about it and under what circumstances.
W. Jones	Yes. I remember seeing something about Section 13 in a document which may have been posted in the dispatch hall.
J. Richards	In the correspondence from the Joint Port Labor Relations Committee.
A. Roberts	In the correspondence from the Joint Port Labor Relations Committee, which is in my personnel file with PMA.
M. Kennedy	Yes. In the correspondence from the Joint Port Labor Relations Committee, copies of which are in my personnel file with PMA.
W. Palmer	Yes. I received this type of information in a form of my pay check.
A. Hughes	I do not recall receiving any information about Section 13 until after I was deregistered. I heard about it from other deregistered longshoremen.
E. Gums	Yes. In communications from defendants.
M. Luppi	Yes. In the form of documents from the Port Committee.
E. Dunlap	Yes. This information was contained in the correspondence sent to me.

DISPATCHERS

DIRECT EXAMINATION

C.T., 915:26-31.

. . . If a man "in the hall" for the volunteer dispatch is not dispatched, he can sign-in for the next day at his correct accumulated LMO hours; this has the effect of correcting any mistake by which his work number was at too low an hours figure. The sign-in for the next day has this effect because a man drops hours only if he takes a job while on the board at too low an hours figure.

CROSS EXAMINATION

C.T., 933:2-15.

Some of the dispatchers testify: Normally taking any given 1,000 entries on the master dispatch sheets, I would estimate that there would be on the average no more than 30 mistakes that were brought to the attention of the dispatchers. Of that number, perhaps one of them would be due to a dispatcher's erroneous transcription of a clearly recognizable number from the sign-in sheets. Ten of them would probably be due to the dispatcher's erroneous reading of an unclear entry on the sign-in sheet. The remaining 20 would be due to the fact that the man himself or someone acting for him had placed the wrong work number or the wrong hours figure on the sign-in sheet. The wrong number or figure might have been written on the sign-in sheet with intention, through negligence or carelessness or mistake, or as a result of pure error, or by reason of making the entry before the day's work was finished on the basis of the man's erroneous estimate as to the hours to be worked during the day.

RE-DIRECT EXAMINATION

C.T., 948:31-33.

. . . The dispatchers have no way of knowing what the man's correct LMO hours are and have to take the man's word for it.

C.T., 949:11-13.

. . . The record checkers would be the ones to check the records to see if the man had told the truth and if the entry on the master dispatch sheet was a correct one.

C.T., 950:20-23.

. . . Some of these dispatchers testify further: I would estimate, on the average, out of a hundred entries on the master dispatch sheets one of them was a mistake that was due to poor handwriting on the sign-in sheets.

C.T., 951:1-19.

The LMO procedures have been followed for over 20 years. They have applied to both the A longshoremen and the B longshoremen. I know of no facts to suggest that the number of errors made by the dispatchers in preparing the master dispatch sheets for the B men during the 1962 period when the B men's LMO records were checked were any greater or less, in proportion to the number of men and the length of time involved, than the number of errors made by the dispatchers during that period in preparing the master dispatch sheets for the A men. Furthermore, with respect to the period following December 31, 1961, as to the B men who came into the industry in 1959, I know of no fact that would suggest that the errors made in signing in by the longshoremen on the B list during the period from January 1, 1962 through June 17, 1963 were any greater or any less, in proportion to the number of men, than the similar errors made by the men on the A list during that period or the period from 1952 to date. There are no facts that suggest in any way that the B men were told during the period of January 1, 1962 through June 17, 1963 "to come up on your correct hours" or "to go out on your correct hours" any more or less frequently, in proportion

to the number of men and the time involved, than were the A men so told during the period from 1952 to date.

RE-CROSS EXAMINATION

C.T., 953:1-7.

. . . I believe that I was able to correctly transpose most of them to the master dispatch sheet, because if I misread them I assume the men would have brought the errors to my attention. However, I have no way at the present time to determine how many mistakes were made in transposing numbers from the sign-in sheets to the master dispatch sheets, if any, which were not brought to my attention.

MIKE SAMADUROFF
DIRECT EXAMINATION

C.T., 954:21, 25-31.

I was at the B men's meeting of July 10, 1959. . . . I also explained that each man should get a time book and keep a record of his hours worked and that each man was responsible for signing in at his correct hours.

Other union officials explained some of the penalties, particularly those covering pilferage and fighting. The B men were told that there were penalties for violating the rules as to the LMO system.

JAMES D. EDWARDS
DIRECT EXAMINATION

C.T., 956:12-14, 20-23.

In both situations described above, the response that we most frequently heard from a longshoremen who was charged with dropping LMO hours was, "I did not intentionally violate the rules." . . . If the JPLRC were to have made determinations as to intent, in my opinion we would have introduced subjective factors and would have left the committee open to charges of favoritism or discrimination.

C.T., 956:27-957:2.

I made each determination as to whether or not a man had dropped LMO hours solely on the basis of the facts in the records as to each day on which the man took a dispatch slip at the hall

during the period of the regular dispatching of men from the master dispatch sheet. My experience with the other record checkers, in making our studies and in reviewing the charges with the men involved, is that all of the other record checkers made decisions on LMO charges exclusively on the basis of these facts in the records, as I did.

C.T., 957:7-14.

A man drops hours when he takes a dispatch slip while on the master dispatch sheet at an hours figure below his correct accumulated LMO hours. If he does not take a job while he is too low on the board, he will have no violation if he gets on the board at his true hours before he takes the job. If he corrects his situation before he picks up a dispatch slip either by getting the correction made on the master dispatch sheet for the current day or by signing-in at his correct accumulated LMO hours for the next day, he has no violation.

N.L.R.B. TESTIMONY OF JAMES ROBERTSON

[Exhibit J]

490:5—490:18; 490:22—491:9.

Q. Could you summarize the principal differences between the status of a limited registration longshoreman or a Class B longshoreman, and, on the other hand, a fully registered longshoreman, or who we for short call Class A longshoremen?

A. Well, one of the ways I have always used to describe it, of course, is the type of security that the man has.

A Class A fully registered longshoreman is similar to a steady employee. He is like a Civil Service worker for the Federal Government that has served his tenure and he has got his job.

A Class B, or a limited registered man, is under probation proving himself. He is similar to a man that has been accepted by the employer but working toward getting his tenure, just like they do under Civil Service.

* * *

Q. What is the general length of time that a fully registered longshoreman remains in the industry?

A. For the most part the fully registered longshoreman remains in the industry his entire working life. until he dies,

retires under the pension plan, or is promoted to another job out of the bargaining unit.

Q. Do many of the men who are fully registered men leave their jobs and take other employment of other types on a voluntary basis?

A. I have known cases of this, but it is very, very minute, a very small number.

The jobs are too good to leave.

520:20—25; 521:22—522:5.

Q. (By Mr. Ernst) Mr. Robertson, could you state the characteristics of employees that the PMA wishes to have deemed should be considered in its efforts to get the best qualified men to be decasualized registered men on the Pacific Coast?

A. Well, obviously, one of the first is physical characteristics the ability to do the work. . . .

We would like him to be intelligent, obviously, because we have certain skilled jobs that we would like to promote him to and this requires some intelligence.

We would like the man to be basically honest; be a good member of the community; pay his bills.

In other words, we feel that because of the conditions we have on this water front we can demand high standards, and we demand the highest standards we can, that we can get the Union to agree to.

REFEREE TESTIMONY OF ANTONIO S. CAFETEIRO

[Exhibit 10, January 17, 1964, morning]

30:14—23; 32:7—10; 32:24—33:4; 33:12—23; 36:6—9; 36:16—19

GORDON: Yes. And the question is, of course, as to the witness's understanding that Sunday was not a flop day. Is that correct?

A. Because on Sunday when they flop, they used to put note on the board.

Q. Will you explain that?

A. On Sundays, when they used to flop, they put a note saying that we're going to flop on Sundays and—during that time there

was a note on the board saying that they were going to pull the hours, or something like that. . . .

* * *

Q. [Rideout]: . . . But I wanted to know, was there any specific time, and any individual of authority that ever told you that you would not flop if you did not work on Sunday?

A. No.

* * *

Q. (By Mr. Gordon) What did the bulletin say, in substance, that you have testified to? Now, pay attention to my question. I'm trying to keep it plain so you understand it. You say a bulletin was posted? A. Just more or less, a note.

Q. All right. What would such a note say, that was posted on a Sunday?

A. Well, I can't tell you exactly what it say. I know it said that they would pull the board.

* * *

Q. And is it correct that your experience was that when such a note appeared, you were guilty of a flop, if you didn't remain so that you could be reached?

A. Yes.

Q. Is it correct that when such a note did not appear and you were passed, you would still not be guilty of a flop?

A. Well, I don't know. According to them, I don't—

Q. I'm asking your experience. Listen to my question. I'm asking you now what your experience was. I'll ask you again. When there was a note, was it your experience that if you were passed on a Sunday, you were not guilty of a flop and you weren't flopped?

A. No, because most Sundays I never did go over there, . . .

* * *

Q. (By Mr. Gordon) One question, what reason did you have, Mr. Cafeteiro, when you signed in on that Sunday, not to square off? A. What reason?

Q. Why, didn't you square off? . . . Had you understood that Sundays was a flop, would you have—

A. I was thinking, taking for granted that I wouldn't flop on Sunday, on that Sunday.

REFEREE TESTIMONY OF STANLEY WEIR

[Exhibit 10, January 13, 1964, afternoon]

50:4—15

A. All right. I observed among others that I was getting very anxious to get an A book in 1960. Other men indicated to me the same feeling. In 1959 and '60 the union investigating committee had begun to process B men for upgrading to A status, meaning union membership and A registration. They processed a little over 300 men and stopped it. With that processing, they had stated that they would upgrade 163 men and every month thereafter would upgrade one man for every man, a man to retire, or never less than 15. The contract that came into effect in 1960 auto mechanics [sic] [automation] contract or modernization contract stopped or froze registration on the West Coast so that opportunity to become A men was frozen also.

54:21—55:11; 56:9—10, 18—21;

. . . I believe late in March or early in April another attempt was made to deregister me. I received a deregistration notice late March or early in April saying that, "You have not maintained availability of 70% of each 30-day period." And I kind of scratched my head. I thought they were accusing me of the time that I had been of injured on the waterfront as a result of steel landing on my foot. So I went to the record checker's office. I asked Asher Harer (phonetic) to do a time check around which time I was hurt. I said, "Is that the time? Let's find out for sure." He phoned up the PMA at 16 California Street while I was sitting there, and he talked to a Mr. Hall, and Mr. Hall said to Mr. Asher Harer, "It's for the period of November 6th until after the 1st of the year." Well that was the period in which I was off injured. I said to Mr. Asher Harer "Stop everything." I went right to 16 California Street in person. When I got there

I talked to Mr. Edwards, and Mr. Edwards said, "No, sir, it is not. You were injured in that period, and we know about that."

* * *

It turned out that when I went to the hearing on that particular charge, . . . I was told that my situation wasn't too bad, to keep it clean and notify them of any time I would take off in the future, and everything was all right.

[Exhibit 10, February 4, 1964, afternoon]

52:28—53:2; 53:21—54:12; 55:6—10

Q. You drafted a letter dated July 27 which you sent around to all men that had been deregistered, is that right?

A. I did.

* * *

Q. . . . Tell me about that letter.

A. All right. I wrote a letter which was for my appeal to my deregistration, and I showed it to several men, and several men helped me draft it, and it acted as a model appeal letter for any and all that wanted to use it, but I did not send that particular letter around. Later on after the hearing in July and after the confrontation at the union hall, I drafted another letter with the aid of the steering committee longshore jobs defense committee which we sent along to all the members of the jobs defense committee.

Q. You talked about last the longshore jobs defense committee?

A. Correct.

Q. What sort of an organization is that?

A. An organization of men who were framed out of their jobs from Local 10 and deregistered by Pacific Maritime Association.

Q. And you are the founder of that group, sir?

A. No, I am not the founder. I am a founder.

Q. Who are the other founders, sir?

A. It's hard to remember at this late date.

* * *

MR. WEIR: To the best of my ability it was done on a very informal basis and involving quite a number of men, 82 who appeared. There has been some 19 or 20 men. I can't remember which 19 or 20 after eight months. That 19 or 20 became 60, and who the first group were, I can't tell.

59:8—20; 60:4—61:12; 61:17—24; 62:15—27; 63:11—13

MR. MUNTER: Q. Mr. Weir, you previously testified that you composed a letter with the aid of some others that you sent around to various claimants together with a mimeographed form and suggested that they send it in to the PMA, is that right?

MR. WEIR: A. No, I didn't testify to all of that.

Q. Is all of what I said true?

A. All of what you say is true.

Q. Okay.

A. With — let me correct one thing. Not send in to the PMA. Send in to the Joint Labor Relations Committee.

Q. Now in that matter you suggested to the men that they were claiming discrimination, is that right?

* * *

MR. WEIR: Let me answer the question to the best of my recollection. The letter states that the signee wants another hearing due to the fact that he has been discriminated against, and I don't think it's because of section 13 in the letter but because simply due process, or lack of due process is a form of discrimination. I believe that is the sense of the letter since I am unable to see it now, and I wrote that, something along those lines.

MR. MUNTER: Q. Did you have the help of the steering committee on that?

MR. WEIR: A. Did I have the help of the steering committee when I wrote that?

Q. Yes, or did you write this letter by yourself?

MR. GORDON: Same objection — remote.

REFEREE: You may answer the question.

MR. WEIR: I think I wrote that by myself.

MR. MUNTER: Q. In one letter you wrote, and this one is dated July 27, 1963, you state:

> You recall that our first meeting last Thursday night we decided to send the Joint Labor Relations Committee another appeal based upon the Discrimination Section 13 of the Master Contract.

Do you recall that?

MR. WEIR: A. No, I don't recall that per se. Is that a letter from the committee?

Q. This is a document that has been marked as Exhibit E-8 for identification [before the referee], and it's a mimeographed form dated July 27, 1963, and I'll show it to you and see if it refreshes your recollection. The mimeographed side, the other is a letter by one of the individual claimants, Mr. Referee (hands document to Mr. Weir).

A. That's it. That is the correct one.

Q. You wrote that, sir? A. Yes.

Q. In there you say that at our meeting last Thursday night you decided upon additional appeal based upon Section 13 of the Master Contract? A. Mm—hmm.

Q. And I take it you are referring to Section 13.1 set forth in the grey booklet?

A. That is correct.

Q. Now the section refers to discrimination either in favor of or against any person because of membership in the union, activity for or against the union or absence thereof, or race, creed, color, national origin, or religious or political beliefs. Now my question to you, Mr. Weir, is do you feel that you and just for yourself first sir, have been discriminated against because of your race? A. No.

* * *

Q. All right. Do you feel you have been discriminated against because of membership or non-membership in the union?

A. Yes.

Q. All right. Let me break that down. Do you feel you have been discriminated against because of membership in the union?
A. No.

Q. Now then I take it you feel you have been discriminated because of the fact that you were a non-member of the union?

A. That's correct.

Q. Okay. Now how many B men were there approximately in your group? By that I am talking about that went in with you in 1959, whenever it was.

A. 700 odd.

* * *

Q. All right, were any of them members of Local 10?

A. No.

Q. Now when I asked you if you felt you had been discriminated against because of non-membership in the union, were you referring to non-membership in Local 10? A. Yes.

68:28—69:10

Q. All right. Based on that statement you have — your only knowledge would be that they were granted Class A registration prior to being admitted into the union?

A. No, that isn't the sense of which this whole thing took place all along. All along it has been considered through union meetings and reports to B men at B men meetings and in the bulletins, that membership in the union, full membership, no longer probationary members of any sort, and A registrations were something that one obtained simultaneously. You could not have one without the other.

DEPOSITION TESTIMONY OF STANLEY WEIR

[Exhibit LZ]

[90]

Q. That raises one question. Was there any place where you ever worked where you had a system of a dispatch hall working like up here where a man came down and put down his number and

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hours as the basis for determining the sequence in which he was dispatched to work? A. Yes.

Q. Which union was that?

A. The sailors union.

Q. But with the sailors union you didn't put down the number of hours worked.

A. It was essentially the same system, though. The man who is waiting the longest for the job gets the job, provided he has attended union meetings while he is waiting for a ship. It is a rotating system on the same basis as the low-man-out system.

Q. At the sailors union, however, as I understand it, the time that you were waiting has based on some written evidence that you got from the dispatcher or whoever was running the hall.

A. When you are ready to start waiting, you come to the dispatcher and he gives you a shipping card with a date on it. And that date remains active and bona fide and can get you a job, provided you have meeting stamps on the other side.

Q. But you, as an individual, did not have any right to put in any date you wanted on the front of that card.

A. Oh, no.

Q. And you did not have the right to put in dates that you went to meetings on the backside of that card.

A. No.

Q. That was done by somebody else.

[92]

A. Yes.

Q. On the longshore side, the data that was involved where you were was based on what information you provided yourself or your partner.

A. Yes. And I assume it was also based on information on the other end. I mean, theoretically at least, there are periodic checks on all longshoremen and the hours they work so that any

mistakes that they made can be corrected. I don't think the employers or the union are going to allow the men themselves to be the only record-keeper, and we in fact were not the only record-keeper.

Q. Do you know of any occasion other than the occasion with respect to the deregistration of the group of B men in the spring of 1963 in which there was an indication that there had been such checking up by either the union or the PMA as to the hours reported by the men for use in their dispatching?

A. I seem to recall that there were B men who had been before the labor relations committee in the early period of our being down there. I don't recall precisely what the charges were —whether they were availability or low-man-out or bypassing the hiring hall or what.

Q. Well, now, weren't there some developments as to this that led to some meeting on the subject of chiseling among the B men?

A. At the B men meetings there was never a lot of discussion about chiseling, because I don't think there was a big problem

[93]

with chiseling among B men. The B men had no protection, other that their ability to keep an absolutely clean record. No one was representing us.

Q. Was it generally known among the B men that you had to keep an absolutely clean record?

A. I think so.

Q. Nobody was telling you that you should do so?

A. Nobody was telling us to the contrary, and everybody was telling us that we should do what was right.

Q. In other words, this was commonly told you by union officials, A men and everybody else. Is that it?

A. Yes. That's what the message was. What the practice might have been among A men might have been something else,

because it was known that they were chiseling and getting time off and violating the low-man-out rules and some of this appeared in the weekly longshore bulletin.

Q. But you did know that there were penalties against A men for violation of the low-man-out procedures.

A. Yes.

Q. And you saw those simply by looking at the union bulletins.

A. That is correct.